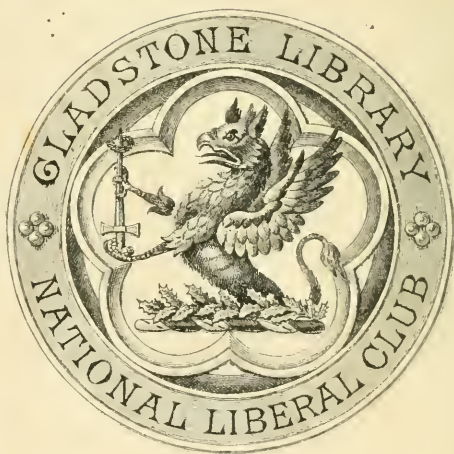




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THE MAKING OF MODERN WALES



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TORONTO

THE MAKING OF MODERN WALES

STUDIES
IN THE TUDOR SETTLEMENT OF WALES

BY
W. LLEWELYN WILLIAMS

B.C.L. (OXON), K.C.

BENCHER OF LINCOLN'S INN, AND RECORDER OF CARDIFF

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Amdanaf fy hun, mi allaf ddoedyd er dwyn onof y rhan fwyaf o'm byd hyd yn hyn o'm hoes ym-mhell oddi wrth wlad Gymry, etto wrth fod ymysg Ieithoedd dieithr, a darfod i mi dreulio f'amser a'm hastudrwydd mewn pethau eraill, ni bu fwy fyngofal ar fyfyrïo, a dal i'm cof un iaith, no'r Gymraec ; gan ddamuno allu o honof wnenthyr rhyw lês ir iaith a'r wlad lle ym ganwyd.

MORUS KYFFIN.

Ac o'm rhann inheu fyhunân, wrthydh oll yr achwynaf na chefais nemor o gyflawn na thymherus aded nac amser na chwaith esmwythder na seibiant o'r byd i alhu cwplau a pherpheithio y llyfrau yma yn hanner cystal ac yroedh fy ewyllys.

SION DAFYDD RHYS.

Gwnewch a pherpheithiwch y maint a dharfu i mi dhechreu : neu (o'r bydh gwelw ganwch) gadewch yr eidho fi yn lhonydh megis ag'y mae, a' mal yn oferbeth ; a dychmygwch chwitheu betheu eraill, a' threfneu a font gwelw no'r meu fi. Canys ny's gwneuthum i etto, onyd megys torri'r ia ; ac y sawl a fynno, dilyned yn ehofn ; a'r sawl ni fynno, torred yr ia i hun, ac aed rhagddo yn enw Duw.

SION DAFYDD RHYS.

TO THE READER

THIS book is not intended to be a History of Modern Wales, but an attempt to describe the transformation of Mediaeval into Modern Wales. No pioneer has blazed a path through the untrodden forest before me. Dr. Henry Owen, the late Judge Lewis, Mr. Lleufer Thomas, and Miss Skeel have done valuable work in reference to the Court of the Council of the Marches. Dr. Thomas Rees and others have spent much labour over the history of Nonconformity. But, except in these directions, I have had the benefit of no previous work. These circumstances will help to explain why I have apportioned so much space to the decay of Catholicism and so little, comparatively, to the rise and progress of Nonconformity in Wales; so much to the Court of Great Sessions and so little to the Council of the Marches. The story of Catholicism in Wales after the Reformation has never before been told, while innumerable volumes have been published dealing with the history of Protestant Nonconformity. No one has ever attempted to give an account of the Courts of Great Sessions, important though the part was which they played in the development of Wales, while Miss Skeel's exhaustive monograph on the Council of the Marches has rendered the task of writing its history a work of supererogation. The difficulty about the last two chapters of this book has been to decide what to leave out. I am indebted

to my friend, Prof. Garmon Jones of Liverpool University, for several valuable suggestions relating to the Introduction and Chapters I., II., III., and IV.; and to my friend, Prof. Sir J. Morris Jones of Bangor University College, for kindly looking through and making some corrections in Chapter VII.

March 1st, 1919.

THE MAKING OF MODERN WALES

INTRODUCTION

“FREEDOM and not servitude is the cure of anarchy,” said Burke in his great speech on “Conciliation with America,”¹ “the profoundest manual of civil wisdom.”² To statesmen of the “blood and iron school,” that plangent phrase is a meaningless and dangerous paradox. It took the world unnumbered centuries to see even as in a glass darkly the truth of that vital principle in the government of men. The old-world conquerors, Sennacherib and Nebuchadnezzar, laid desolate the countries which they had subdued. They rased to the ground the cities which they had taken. They carried the conquered peoples into captivity. The Romans, after long years of experience in aggression, discovered a better way of turning their conquests to account. At one time they were content with the economic exploitation of their provinces. They spared the lives and they tolerated the religion, the laws, and the customs of the conquered, but it was only in order that they might wring a heavier tribute from the helpless people. It might be said of them, as Macaulay said of the English

¹ Burke's Works (Bohn edit.), vol. ii. p. 487.

² Lord Morley's *Politics and History*, p. 35.

in Bengal during Clive's absence in England after the battle of Plassey, that they formed a government as "oppressive as the most oppressive form of barbarian despotism . . . with all the strength of civilisation." It was only when the fierce energy of Rome and Italy had been sapped by a long career of success and luxury, and the Empire had to rely more and more for its preservation on the manly vigour of the ruder provincials, that better treatment was meted out to the inhabitants of Britain and Gaul, of Spain and Africa. But, from first to last, the Roman state, after it had once transcended the limits of the Seven Hills, was founded on force, and to the Gracchi and Brutus and Cato, lovers of freedom though they were, as well as to the mild and clement emperors, such as Trajan, Hadrian, and Marcus Aurelius, Burke's maxim in its application to the vassals of Rome would have been but as sounding brass or a tinkling cymbal. The mighty fabric of the Roman Empire fell before the onrush of the barbarian hordes from the wastes and forests of Germany. The flame of its civilisation was wellnigh extinguished; there survived only the little spark that was jealously guarded through the Dark Ages on the altar of the Catholic Church. The rule of unqualified and ruthless force returned with the triumph of the barbarians. Alaric and Attila, the Saxons who overran Britain, the Northern Vikings, and the predatory Danes waged war as pitilessly as Sargon or Tiglath-Pilezer. They made a desert and called it peace. When William the Norman destroyed for ever the Anglo-Saxon nation at Senlac, he treated England as a conquered country. He divided the land among his warriors, and he and his barons and his knights ruled with absolute sway over the subject

race. It was not until a century and a half of intimate contact had caused the two races to begin to assimilate that the rights of the Saxon as well as the Norman came to be safeguarded in the Great Charter of English liberty. The case was different in countries where the conquered race was unable or unwilling to be amalgamated with its conquerors. In Wales, for example, the struggle for national freedom went on for two centuries after the Norman invasion. Scores of skirmishes and some pitched battles were fought, but the spirit of the Cymry was irrefragable. Castle after castle was built by the invader, one square mile after another was conquered, the terrors of excommunication were used by an enslaved Church to aid in the subjugation of a devout people, and the remnant of the ancient race became fewer and feebler one generation after another. Still they fought on, and under the two Llewelyns it almost seemed as if their stubborn gallantry might yet prevail. It was only when Llewelyn the Last fell before the might of "the greatest of the Plantagenets" that the desperate struggle for national freedom was sullenly abandoned. Edward I. by the Statute of Rhuddlan endeavoured, with a statesmanship of which no other contemporary ruler was capable, to effect a settlement of the conquered Principality. He turned the patrimony of the Welsh Princes—Anglesea, Carnarvon, and Merioneth in the north, Cardigan and Carmarthen in the south—into shire-ground. He did not interfere with the use of the Welsh language. He appointed a commission to inquire into the Welsh laws and customs, and some of them he allowed to remain in force. But he adhered rigidly to one inflexible rule. No Welshman was allowed to govern the country, to administer the

law, or to represent the sovereign authority. The Government could be carried on by the King and his officers alone. After the Glyndwr rebellion a still more rigorous system was introduced. Burke reckoned that there were "no less than fifteen acts of penal regulation" passed by Parliament on the subject of Wales.¹ What was the result? "Wales rid this kingdom like an incubus; it was an unprofitable and oppressive burden; and an Englishman travelling the country could not go six yards from the high road without being murdered."

It is abundantly clear that by the end of the fifteenth century the Edwardian settlement had hopelessly broken down. Sir John Wynn, in his *History of the Gwydir Family*, describes the state of lawlessness and anarchy which prevailed in Carnarvonshire, one of Edward's "shire-grounds," after the close of the Wars of the Roses. Private wars went on unchecked, family vendettas were as rife and as ruthless as they afterwards became in Corsica, life and property were insecure, the arm of the law was powerless. Sooner than live in constant hostility with his hereditary enemies in Carnarvonshire, Sir John's great-grandfather Meredydd² migrated to the wilds of Denbighshire, where he dwelt surrounded by outlaws. It was better, he said, to live in obscurity in the valley of the Conway than to be at continual strife with his kinsmen and neighbours in his native county. "I shall find elbow-room," he said, "in that vast country among the bondmen, and I had rather fight with outlaws and thieves than with my own blood and kindred, for if I live in mine house in Eifionydd I must either kill mine own kinsmen or be killed by

¹ Vol. ii. p. 485.

² Meredydd ap Ieuan died in 1525.

them." Ysbytty Ifan—the Hospice of the Knights of St. John—which was near the exile's new home, was "a wasps' nest, a lordship belonging to St. John of Jerusalem, which had privilege of sanctuary." Thieves and murderers flocked thither, and the country for twenty miles round suffered from their depredations. He could not go to church on Sunday without bolting and barring his house in Dolwyddelan, and stationing a watchman on a rock, whence he could see both house and church. He was always guarded by twenty stout archers, but even then he never dared return by the way he came for fear of ambush. Sir John described, too, the ruthless destruction of the Vale of Conway by the Earl of Pembroke during the Wars of the Roses, burning every house so that "the very stones of the ruins of manie habitations, in and along my demaynes, carrying yet the colour of the fire." Later on he says that "in those days in that wild worlde every man stood upon his guard and went not abroad but in sort and soe armed, as if he went to the field to encounter with his enemies."¹ Lord Herbert of Cherbury, in his fascinating fragment of "Autobiography," throws light on the condition of Montgomeryshire in the early part of the sixteenth century. His great-grandfather, Sir Richard Herbert of Montgomery, who died in 1539, was "a great suppressor of rebels, thieves, and outlaws," and his son Edward Herbert, who continued his work in Mid-Wales, is said to have been "noted to be a great enemy to the outlaws and thieves of his time, who robbed in great numbers in the mountains of Montgomeryshire, for the suppressing of whom he went both night and day to the places where they were." The

¹ *History of the Gwydir Family.*

poems of the Welsh bards of the fifteenth century, as well as the preambles to the Welsh Statutes of Henry VIII. and the numerous references in the State Papers, which will require a more detailed notice later on, amply confirm the traditions of the Wynn and Herbert families.

Here, then, was the oft-recurring problem presenting itself in an acute form. A small conquered people, numbering probably not more than 6 or 7 per cent. of the dominant race, out of sympathy with the law, its makers, and its administrators, had been reduced in the course of a little over two hundred years to a condition of anarchy. But for the fact that literary activity was never more pervading and Welsh poetry never burned with a brighter flame than in the fifteenth century, one would be tempted to describe the state of Wales between 1400 and 1542 as one of barbarism. In the ordinary course of things it seemed inevitable that one of two things must happen. Either the stronger nation, stung to action by persistent provocation, would enter upon a policy of strict and merciless repression against the weaker, which would exterminate the one and brutalise the other ; or it would leave the weaker to welter in fratricidal strife, only interfering when a direct and organised attack was made on its own authority. Two centuries after the Conquest of 1282, the condition of Wales was comparable to the condition of a Balkan state under Turkish rule a hundred years ago, or to that of Albania at the beginning of this century. Nor was its condition materially amended by the accession of Henry Tudor to the English throne. As I shall show, there was the same deplorable lack of "governance" in Wales fifty years after the battle of Bosworth as was

bewailed by Llawdden in the middle of the fifteenth century.¹

Lecky, commenting on the effects of the Act of Union of 1707 on the national character and social condition of the Scottish people, asserts that "there are very few instances on record in which a nation passed in so short a time from a state of barbarism to a state of civilisation, in which the tendencies and leading features of the national character were so profoundly modified, and in which the separate causes of the change were so clearly discernible."² Far be it from me to accept Lecky's sharp contrast between the "barbarism" of Scotland in the seventeenth and her "civilisation" in the eighteenth century. Scotland before 1707 had a better and more diffused system of education than England, and Fletcher of Saltoun was certainly more "civilised" than the Squire Westerns of England. Even if by "barbarism" is meant lawlessness, and by "civilisation" ordered liberty, it may be doubted if the Scotland of the first half of the eighteenth century, with its seething Jacobitism, its two Rebellions of 1715 and 1745, its Porteous Riot in Edinburgh, and its blackmailing caterans in the Highlands, was more law-abiding than the Scotland of the seventeenth century. I am, however, only concerned to show that Wales is one of "the few instances" where the experience of Scotland in the points mentioned by the historian was surpassed.

"The march of the human mind is slow," said Burke

¹ Ni a roem yr awr yma
Dreth aur am lywodraeth dda.

'We would give this hour a gold tax for good government.'

² Lecky, *History of England*, vol. ii. p. 320.

in his reference to the precedent of Wales.¹ "It was not until after two hundred years discovered that, by an eternal law, Providence has decreed vexation to violence, and poverty to rapine. Your ancestors did, however, at length open their eyes to the ill husbandry of injustice. They found that the tyranny of a free people could of all tyrannies the least be endured ; and that laws made against a whole nation were not the most effectual methods for securing its obedience. Accordingly in the 27th year of Henry VIII. the course was entirely altered. . . . In the 35th of that reign a complete and not ill-proportioned representation by counties and boroughs was bestowed upon Wales by Act of Parliament. From that moment, as by a charm, the tumults subsided, obedience was restored, peace, order and civilisation followed in the train of liberty. When the day-star of the English constitution had arisen in their hearts, all was harmony within and without."

This glowing passage, describing the destruction of "barbarism" with the brightness of the coming of the English constitution, is too roseate for the historian's prose. Yet in substance the great orator's account is borne out by the facts of the case. Never was there a country seemingly more unfit for freedom than was the Wales of Henry VIII. ; never was statesmanship more speedily and more abidingly justified of a novel, a bold, and a generous experiment. Casting aside tradition and precedent, turning a deaf ear to the remonstrances and protests of his officials, Henry VIII. determined to associate the subject people with their own government. It was probably the accident of his own descent from a

¹ *Conciliation with America*, vol. ii. p. 486.

Welsh stock and the fervent personal loyalty of the Cymry to the scion of the House of Cadwallader of the Golden Torque that inclined him to make the experiment. But it was no accident that the experiment proved a success. It was due, as Burke remarked, to an "eternal law," which is as certain in its operation as the law of gravitation.

There was no precedent for such a policy, either in ancient or in modern times. Burke cites three other instances—Chester, Durham, and Ireland. But the cases of the Palatinates of Chester and Durham are not parallel, for their inhabitants were not of different blood from those of Yorkshire or Warwickshire, and they were in no sense a subject race. The case of Ireland is not apposite, for the "Welshery" were entrusted with responsibilities and endowed with privileges which were for many generations denied to the "wild Irish."¹ It was not only a policy without precedent, it was contrary to all the traditions of English statesmanship and to the spirit of the age. Hallam has quoted, with pardonable indignation, the description given by Sir Thomas Smith of the attempts made by the Tudors to curtail the independence of Trial by Jury—"the standard record of primeval liberty."² Yet it was at this period, when the sanctity of Trial by Jury was being invaded by the high-handed interference of the Star Chamber and the browbeating of judges—and in the case of Wales and the Marches by Statute—that the system was extended to the most disturbed portions of what is now known as the Principality of Wales. It was an age whose tendency was towards the transformation of

¹ See e.g. Lecky's *Ireland*, pp. 1-4.

² Hallam, *History of England*, p. 49 (1871 edition).

the limited monarchies of the later Middle Ages into absolute monarchies. Representative institutions were decaying in Spain and in France; Henry VIII. was more absolute than any Plantagenet.¹ But at the height of his power he conceded the right of parliamentary representation, for the first time, to a country which as a whole was indifferent to the privilege. The experiment was launched at a time seemingly most inopportune. The whole fabric of society was tottering through the convulsion caused by the Reformation; the old faith, the old learning, the old science were passing away "like an unsubstantial pageant faded." "The paths trodden by the footsteps of ages were broken up; old things were passing away; and the faith and the life of ten centuries were dissolving like a dream."² The breach with Rome had become complete, and by dissolving the monasteries, Henry had, with regal insolence, brought home the real meaning of the revolution to every part of his realm. Nowhere, as we shall see, was the change more unwelcome than in Wales, in those days the home of lost causes and impossible dreams. The commons of the North of England spontaneously rose against the ruthless king; for the first and only time the throne of Henry was put in jeopardy. At the moment when the Pilgrimage of Grace was most formidable, Chapuys, the clever Swiss who acted as Imperial Ambassador at the Court of St. James, assured the Emperor Charles V. that Wales

¹ During the later years of Henry VII. and in the reign of Henry VIII. up to the fall of Wolsey, Parliament was practically powerless. Henry VIII. after 1529 called it together almost every year, and treated it with respect. (Pollard's *Henry VIII.*, pp. 236-266.)

² Froude's *History of England*, ch. i.

was ripe for revolt. Bishop Rowland Lee, the President of the Council of the Marches, was convinced on other grounds that Wales was not ready for the grant of a constitution. He begged the king "not to allow the Statute to go forward." Yet it was at this dark and untoward hour that the boon of a constitution was extended to Wales. Even the Parliament which granted it was sceptical of the result. It gave the king the power to repeal or suspend it. That power was never exercised. The grant of a free constitution was an instantaneous success. The same "wonderful issue"¹ attended it in Wales as has since attended it in Canada, in South Africa, in every part of the British dominions in which it has been tried.

"A better people to govern than the Welsh Europe holdeth not," was the testimony of Sir Henry Sidney, whom Queen Elizabeth sent to govern Wales (1559-1586) as President of the Council of the Marches. Sidney took an intelligent and sympathetic interest in the people over whom he ruled. It was owing to his advice and active encouragement that Dr. Powel published, in 1584, his *History of Cambria*, and the sumptuous beauty of the book attests the generosity of the patron. In the preface Dr. Powel bears witness to the change that had been wrought in Wales by the legislation of Henry VIII. "Concerning the alteration of the estate, there was never anie thing so beneficiall to the common people of Wales as the uniting of the countrie to the crowne and kingdom of England, whereby not only the maladie and hurt of the dissention that often happened between the Princes of the countrie, which they ruled, is now taken

¹ Mr. Balfour's speech on the South African Confederation, 15th August, 1909.

awaie, but also an uniformitie of government established, whereby all controversies are examined, heard, and decided within the countrie: so that now the countrie of Wales (I dare boldly affirm it) is in as good order for quietness and obedience as anie country in Europe: for if the ruler and teachers be good and doo their duties, the people are willing to learn, readie to obeie, and loath to offend or displease."

"Surely those lawes have brought Wales to great civilitie for that evill government that was here in ould time," wrote another Elizabethan,¹ "for it is as safe travailing for a stranger here in Wales as in any part of Christendome, whereas in old time it is said robberies and murthers were very common." In another passage he is even more emphatic. "No other country in England so flourished in one hundred yeares as Wales hath don, sithence the government of H. 7 to this tyme, insomuch that if o' ffathers weare nowe lyvinge they would thinke it som straunge cuntrey inhabited with a forran Nation, so altered is the cuntrey and cuntreymen, the people changed in hertt wthin and the land altered in hewe wthout, from evill to good, and from badd to better."

Another witness, who knew the country intimately and who was by no means too favourably inclined to the "Welshery," may be cited. In 1575, Gerard, the Vice-President of the Court of the Council of the Marches, and afterwards Lord Chancellor of Ireland, prepared a

¹ George Owen's "Dialogue of the Government of Wales" (1595), printed in Part iii. of Owen's *Pembrokeshire*, pp. 91-92. Cf. Churchyard's *Worthiness of Wales* (1587), Introduction, "There is neither hewe nor cry (for a robbery) in many hundred miles ryding, so whether it be for fear of justice, love of God, or good disposition, small robberies or none at all are heard of there."

memorandum for Elizabeth's ministers, entitled "A Discourse on the State of Wales." He is emphatic in his testimony to the good order prevailing in the Principality. "At this daie," he wrote, "it is to be affirmed that in Wales universallie are as civile people and obedient to lawe as are in England. Throughowte Wales in every respect Justice embrased and with as indifferent trialles executed as in England, during the tyme of her Majestes Reigne, except 3^e or 4^{or} petty Corners, Noe treason hard of, very seldome murder, in vi years togeather, vnneth on Robbery (committed by the highe waye) harde of. Stealinge of cattell is the chief evill that generall moste annoyeth the countrey."

An even more authoritative and striking testimony to the miraculous change which had been effected in Wales was borne by the preamble to the statute 21 Jac. i, c. 10. The laws of Wales, it is said, were for the most part agreeable to those of England, and were obeyed "with great alacrity," and the greatness of the "quiet" which prevailed was used as an argument against "any further change or innovation."

Almost alone of later commentators, Burke has ascribed the credit of this "wonderful issue" to the right cause. Gerard, Vice-President of the Court of the Marches, in his report to the Council in 1575, with the shortsightedness of an alien official, while recognising the effect, mistook the cause. He set down all the credit to the stern and resolute policy of the "stout Bishop," Rowland Lee, who had so terrified the people that "within three or four years the fear of punishment wroughte firste in theym the obedience theye nowe have grown into." Subsequent writers have followed Gerard,



and Bishop Rowland has come to be regarded as the pacifier and civiliser of Wales. But a calm and dispassionate review of the circumstances will set the Bishop's achievement in its right perspective. He was in office as President of the Council of the Marches for less than nine years (1534-January, 1543), and however vigorous his administration and ruthless his methods, it would require more than nine years of resolute government to change the habits and to transform the character of a whole people. Nor should it be forgotten that the Bishop's energies were limited to the border counties. His letters, still to be seen among the State Papers, bear witness to his incessant activities in Cheshire and Shropshire, Denbigh and Flint, Montgomeryshire and Radnorshire, and occasionally Monmouthshire and Brecknockshire. With the rest of Wales he had little or nothing to do. We have no record that he ever visited Carmarthenshire, Pembrokeshire, and Cardiganshire in the south, or Merionethshire, Carnarvonshire, and Anglesea in the north. He himself states that Merioneth and Cardigan, though shire-ground, were as disturbed and lawless as the Borderland, and we know, from Sir John Wynn's lively narrative, that Carnarvonshire was as turbulent as any portion of Wales. Whatever effect the Bishop's administration may have had in the eastern counties, his influence can hardly have extended to the rest of the Principality, which he never even saw. But not only those parts which were under the Bishop's rule, but the whole of Wales, settled down to cultivate the arts of peace after the time of Henry VIII. We hear, it is true, of the "Gwylliaid Cochion Mawddwy" (the Red Bandits of Mawddwy) in the reign of Edward VI. ; one of the king's judges even was slain

in one of the wild gorges of Merioneth while he was going circuit. In Gerard's time there were still three or four disturbed and lawless "petty corners," and George Owen specifically mentions the north-east part of Cardiganshire, and the wild districts of Arwystli, as being dangerous to the traveller. But on the whole, and speaking generally, Wales became peaceful and law-abiding in the second half of the sixteenth century. The fact that every part of the Principality showed the same tendency at the same time is proof that the influences at work were general and not particular, permanent and not transient. Wales was transfigured; the habits, customs, and even the character—the "Welshery"—of Welshmen were changed, not because of "the fear of punishment," but because the grant of free institutions had removed the causes which had led to the growth of the evils. Dr. David Powel, in his *History of Cambria*, and George Owen, as has already been noted, took a sounder view as to the forces which had led to the pacification of Wales.

Wales became, and has ever since remained, a loyal, comparatively crimeless, and easily governed portion of the British Dominions. In spite of the changes which the influx of strangers has wrought in the social condition of the industrial districts of South Wales, the proud boast of the Welsh poet as to the freedom of the people from crime is still substantially true.¹

A minor, but interesting, question has often been asked. Who was responsible for initiating and carrying

¹

Pa wlad wedir, siarad sydd
Mor lân a Chymru lonydd ?

"What land, when all is said, so pure as peaceful Wales ?"

through the experiment of killing "Welshery" by trusting Welshmen? ¹ The Statute of 1542 refers to "petitions" from the people of Wales. One such petition, which was obviously composed before the Statute, 27 Henry VIII., was passed, is set out at length in Lord Herbert of Cherbury's *History of the Reign of Henry VIII.* It is not known who the author or authors of the petition may have been. In spite of some quaint and whimsical passages, it is evident that the writer was not only conversant in no ordinary degree with the history of his country, but also that he was no mean advocate. Nicholas, in his *Annals of the Counties of Wales*, presumably on the authority of Theophilus Jones, the historian of Breconshire, states that its author was Sir John Price of Brecon. Probably the surmise is correct. Price was a protégé of William Herbert, first Earl of Pembroke. If Price was the author, that would account for the fact that a copy of the document was preserved in the Herbert archives. Sir John was the

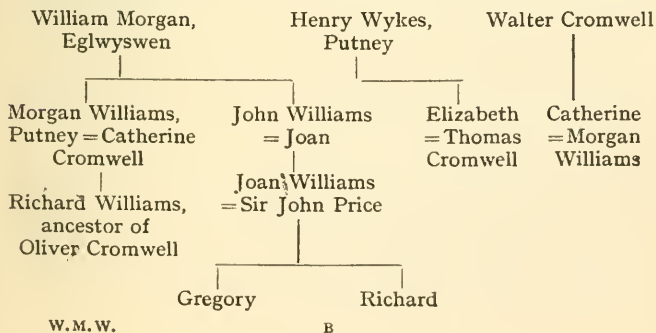
¹ "It is remarkable that the person by whom this Statute (of 1542) was framed or introduced into Parliament is not known. The author of the *Observations on the Statute* mentions the names of some persons who, from their character and situation, might have been disposed to such a work; but he mentions them merely as conjectures, and states that the Principality must ever remain ignorant of their greatest benefactor." (Oldnall Russell's *Practice*, Introduction, p. xxvii.) If George Owen is to be relied on, some alterations in the Statute, as originally drafted, were made during its passage through Parliament. For example, the districts of Llanstephan, Llanddowror, and Laugharne were added to Carmarthenshire ("Dialogue" in Owen's *Pembrokeshire*, ii. p. 105), and Haverfordwest was constituted into a separate county borough (*ib.* p. 113) through the machinations of Sir Thomas Johnes, M.P. for Pembrokeshire, and the member for Carmarthenshire. It would appear, therefore, that representatives from Wales had taken their seats in Parliament before the Act of 1542 was passed.

author of the first book ever printed in Welsh.¹ His interest in Welsh history is well known. When he was a member of the Court of the Marches, he encouraged, in his old age, the publication of Dr. Powel's *History of Cambria*. Moreover, he was the foremost Welsh lawyer of the age. His close connection by marriage with Thomas Cromwell² lends colour to the suggestion. If, as the Act relates, the impulse came from Wales, it must have come from some one who had the ear of Henry's ministers, and of all contemporary Welshmen Sir John Price stands out as the man who, by his influence in high quarters and by his confidence in the political capacity and natural generosity of the Welsh people, can with some certainty be named as the inspirer of the liberal policy of Henry VIII. towards Wales.

To Thomas Cromwell, also, some of the credit must be ascribed. His character and career are even more mysterious than those of his master, but of his greatness

¹ *Yn y Llyvr hwnn*, published in London 1546. Reprinted (Ed. J. H. Davies, 1902) in the "Guild of Graduate Series" (Jarvis & Foster, Bangor).

² The following table, taken from J. H. Davies's edition of *Yn y Llyvr hwnn*, shows the connection of Sir John Price with the Cromwells :



there can be no question. He was Secretary of State in 1534, when Rowland Lee was sent to Ludlow. He was almost at the zenith of his power when the Act of Union was passed. He acquiesced in—perhaps even suggested—the appointment of Welshmen to be Justices of the Peace. Before he fell, in the summer of 1540, the Commission which was to prescribe the limits of the counties, to divide them into hundreds, and to appoint the county towns in Wales—to complete, in fine, the making of Modern Wales—had commenced its work. He may not have been the inspirer of the policy, but he was, at least, a willing and active instrument in carrying it out. Its very novelty and audacity would have appealed to that adventurous spirit, whose motto was “to make or mar.”¹

But no estimate of the forces at work in the regeneration of Wales would be complete which failed to take into account the character and personality of the king. To one school of historians² Henry VIII. is the very

¹ Though it seems certain that Cromwell became a convert to the liberal policy, it is noteworthy that, as late as 1533, he still belonged to the old school. Throughout that year the words “the necessity of looking into the state of Wales” constantly occur in his *Remembrances*. The chief memoranda recorded were, that according to the old laws no Welshman was to hold office in Wales; that murders committed in Wales and the Marches might be tried in the Star Chamber; that the Justice of Chester should not hold his office by deputy; and that the payment of fines and forfeitures should be rigorously enforced on Welshmen convicted in the Star Chamber or before the King’s Commissioners in the Marches.

² Perhaps it is inaccurate to describe these writers as a “school of historians,” for their estimate of the character and policy of Henry VIII. has long ago been exploded. Froude’s estimate of the statesmanship of Henry VIII. is well known, and though he was too much of an apologist for even the atrocities of his reign, substantially his estimate of Henry’s policy has prevailed. I cite below Stubbs’s penetrating criticism, which has been

type of a savage and bloodthirsty tyrant, the creature of caprice, the slave of passion, incapable of generous and far-sighted statesmanship. In their view, Henry was so bent on pursuing his personal quarrel with Rome, and so taken up with the excitements of his changing amours, that he was either blind or indifferent to what was passing in the domain of higher statesmanship, and that he remained a mere passive and careless spectator of events which he had neither the will nor the capacity to control and direct. To the other school of historians, Henry is the dominant personality of his age, "every inch a king," "the majestic lord who broke the bonds of Rome" not from passion or caprice but from deep and far-sighted design. "The great factor in the whole complication," said Stubbs,¹ "is the strong, intelligent, self-willed force of the king; that alone seems to give purpose and consistency to the eventful policy of the period; Henry VIII. is neither the puppet of parties, nor the victim of circumstances, nor the shifty politician, nor the capricious tyrant, but a man of light and leading, of power, force, and foresight, a man of opportunities, stratagems, and surprises, but not the less of iron will and determined purpose; purpose not at once realised or systematised, but widening, deepening, and strengthening as the way opens before it." He regards Henry "as the main originator of the greatest and most critical changes of his reign," and asserts that "no minister, great or small, after the fall of Wolsey, can claim any-

adopted by Pollard and Fisher. Even Gairdner, while denouncing in severe terms Henry's savage and bloodthirsty character, especially in his latter years, and while emphasising the essentially selfish nature of his policy, does not deny his "far-sighted statesmanship." (See *Lollardy and the Reformation*.)

¹ Stubbs, *Mediaeval and Modern History*, pp. 283, 306, etc.

thing like an original share in determining the royal policy." Such a theory, it is true, necessitates the belief in a great development of design and new purpose in the king as his reign proceeded, but the historian does not shrink from adopting that solution. "From the very beginning of his reign he is finding out what he can do." He ruled through his ministers and council, but "on the whole Henry was his own chief counsellor."

This estimate of the king's character accords with the development of the Welsh policy of his reign. At first Wales was ignored. In 1525, when the death of Sir Rhys ap Thomas forced the affairs of the Principality upon his notice, the king was content merely to revive his father's policy by sending the Princess Mary to hold her court at Ludlow. As he became aware of the anarchy that prevailed, he resorted to stronger measures. He sent Rowland Lee to reduce the land to order. But with increasing knowledge came a greater grasp of the situation and a clearer perception of the dimensions of the problem. It may be that he was stirred to unusual effort by affection for the country from which the Tudors had sprung, and by a belated remembrance of his father's dying charge that he should deal tenderly with the land of their origin. He authorised, even if he did not suggest, the grant of a constitution to the distracted country. Had he been a mere passive and listless spectator of events, content merely to register the decrees of his ministers, the Welsh policy which was commenced in 1534 would have ended with the fall of Cromwell in 1540. By abandoning that policy, Henry would have followed the line of least resistance. The Lord President was reluctant, if not hostile. The other officials in Wales viewed it with alarm and dismay. There was no

member of his Council who cared enough about Wales, or who was endowed with sufficient insight and foresight, to urge upon the king the continuance of his progressive policy. It would have been easy for Henry, had he so wished, to exercise the powers conferred upon him by Parliament to suspend or repeal the Statute of 1535. The fact that the policy was neither altered nor retarded after Cromwell's fall—that, indeed, it was continued, developed, and completed two years after his death—affords the strongest evidence that the king took an active, personal, and intelligent interest in its promotion. It has been said that Henry VIII. was the greatest king that ever ruled over England, because he always had his own way. In his ecclesiastical policy, in his dealings with Scotland¹ and Ireland, in his relations with the great powers of the Continent, he was invariably fortunate. No Pavia or Innsbrück checked his victorious career. But in no department of government was he more successful than in his dealings with the land of the Tudors; in no other direction did he display greater qualities of statesmanship. With unerring skill he diagnosed the evils from which the country was suffering. With supreme and serene courage he applied the remedy. His policy was one of inspired common sense, which no statesman, bereft of sympathy and imagination, could have conceived. The stage upon which he was called to display these great qualities was small, and on that account the real magnitude of his achievement has been overlooked. English historians have treated it in a superficial and perfunctory manner,

¹ He did not, it is true, actually succeed in bringing about the betrothal of the Prince of Wales with Mary Stuart; but he would never have perpetrated the blunder of Protector Somerset's "rough wooing" which ended at Pinkie.

when they have deigned to refer to it at all. The measure of the man is brought to an impartial test in his Welsh policy. Here at least he was stirred by no selfish or ignoble motives, and there can be no question about his success.

There is one feature which distinguishes the Union of Wales with England from that of Scotland and that of Ireland. It is notorious that the Act of Union of 1801 was never popular in Ireland. It was passed through the Irish Parliament with difficulty, by wholesale bribery and corruption, and it has remained a festering sore in the political and social life of the people to this day. Nor was the Scottish Act of Union popular at the time, or for years after it had become operative, with the people of Scotland. Burton has shown how, for one or two generations, it was bitterly resented by nearly all classes. Smollett, in the middle of the eighteenth century, and Sir Walter Scott, in the early years of the last century, did not disguise their hostility to it. Scotland became reconciled to the Union when the effect of the generous commercial clauses came to be experienced. "The sacrifice of a nationality," observes Lecky, with a dry cynicism only to be found in a utilitarian philosopher, "is a measure which naturally produces such intense and such enduring discontent that it should never be exacted unless it can be accompanied by some political or material advantages that are so great, and at the same time so evident, as to prove a corrective."¹

The union of Wales with England was never unpopular in Wales, and in the course of the four centuries that have since elapsed there has never been a petition from the people of Wales for its repeal. The reason for the

¹ Lecky, *History of England*, vol. ii. p. 303.

instantaneous and permanent popularity of the Union in Wales lay in the fact that it did not entail any " sacrifice of nationality," as was to some extent the case with Scotland and Ireland. Wales became, for the first time, a coherent and organised country ; before that time it was not even a geographical expression. It might have been expected that Welshmen, whose devotion to their mother-tongue has always been profound and passionate, would have resented its supersession as the official language of the Principality by English. The reference in the preamble of the Act of Union to the Welsh tongue is not flattering or even true, and there can be little doubt that neither King Henry nor his ministers regarded with any great measure of forbearance the prolongation of its life. On the other hand, we need not suppose that the ostracism of the vernacular tongue was as complete in official circles as it afterwards became. The Justices of the Peace who were entrusted with the task of administering the law were probably nearly all Welsh-speaking Welshmen, for the gentry of Wales only abandoned their native speech in the eighteenth and nineteenth centuries. Gerard mentions the fact that one of his judicial colleagues on the Court of the Marches knew Welsh, and Elizabeth's ministers early became impressed with the desirability of having Welsh-speaking judges in Wales. Queen Elizabeth, acting under the advice of Sir William Cecil, himself the third in descent from a genuine old Welsh family—the Seisyllts of Allt-yr-ynys—was a patron of Welsh letters. Early in her reign the Scriptures were ordered to be translated into Welsh. " If it please God once to send them the Bible in their owne language, according to the godlie lawes alreadie established," wrote Dr. Powel, in his Preface to

the *History of Cambria*, "the countrie of Wales will be comparable to anie countrie in England." Within a few years his pious wish was fulfilled. Bishop Morgan's Welsh Bible appeared in 1588.

Similarly, it might have been expected that Welshmen would have preferred to cling to the old laws and customs of the country than to adopt a strange system of land tenure and a law of inheritance to which they were averse.¹ But though the Welsh peasant has never quite grasped the conditions of English land tenure or appreciated the justice or utility of the law of primogeniture, there never has been any feeling of hostility to the Union because it was accompanied by these changes. Never, indeed, was there such a violent change effected with so little resistance. The Welsh are essentially a conservative race, who are keenly sensitive to the living influence of the past. Chapuys, the Imperial Ambassador, emphasised the distress among the Welsh, "from whom, by Act of Parliament, the King has just taken away their native laws, customs, and privileges, which is the very thing they can endure least patiently." Yet they passively allowed King Henry to break with Rome, to dissolve the monasteries, and to alter the religious services, to place the Welsh language under an official ban, to extirpate the old Welsh laws and customs, and

¹ It should be remembered that there had been a gradual decay of the tribal system. See, for instance, an account given in the Mostyn MSS. No. 158 of the way Sir Rhys ap Thomas treated the yeomen. "For I have heard many people from that part of the county (lying between the Tawe and the Towy) say that within 20 miles around the place where old Sir Rhys ap Thomas dwelt there was not in the possession of the poor yeomen any land which, if he fancied it, he did not obtain, either as a gratuity or by purchase, without consulting the owners" (Hist. Comm. Report on the Mostyn MSS. Intro. p. x.).

to revolutionise the whole social and political condition of the country without a protest or a murmur. The reason for this tame acceptance of their sovereign's will was twofold. First, there was the passionate loyalty to the Welsh dynasty, a far more potent force with Welshmen of the sixteenth century than we are sometimes disposed to credit. "All the waters of Wye will not wash away your Majesty's Welsh blood," exclaimed Fluellen to Henry V. What was a jest to the playwright was sober earnest to the countrymen of the Tudors. Secondly, these changes were accompanied by those "material and political advantages" which are said to act as a "corrective" in such cases. Wales, even more than England, had suffered from "lack of governance" in the fifteenth century, and had materially benefited by the change. "Good government," as Llawdden said, was what Wales wanted, and it was a source of peculiar pride to Welshmen that they obtained it from a Welsh dynasty.

George Owen, who understood Wales and Welshmen as few men have done, comments on the paradox of a conservative people accepting, with cordial readiness, the gravest changes in their estate. In his "Dialogue on the Government of Wales" ¹ he makes Bartholl draw his interlocutor's attention to this singular fact.

"Bar. : I much marvaile how upon the first alteracion of the government of Wales (when King Henry

¹ P. 91, part iii. of Owen's *Pembrokeshire*. Cf. also *ibid.* p. 53. "Wheras before the sayd statute of Henry VIII wee in Wales had no such officers (as J.P.'s), nor any oⁿ man almost of oⁿ Nation that bare any authoritye in the common-wealth. But such officers as wee had in Wales were for the most part straungers of other cuntreys lyving on the spoyle of the poor afflicted Welshmen."

VIII utterlie abolished the Welsh lawes and brought in the English lawes) the counties received the same quietlie and wthout great grudging and some rebellion ; for new government and alteration of auntient lawes is not easily receaved into any commonwealth wthout tumultes, and innovation in government is accounted very dangerous in a commonwealth. And yet I heare not of you y^t Wales repined at altering their lawes or inducing a new government.

“ Demetus : So it is dangerous to alter anything in a well-governed Commonwealth such as Wales then was not. But to such as live in bondage and slaverie, innovacions and alteracions from Crueltie to Justice are sweet and pleasant ; and then we y^e poore Welshmen y^t were cruellie oppressed by o^r governors, I mean the Strangers that were Stewards, Justices, Sherifes and others, who had law to judge as pleased them, and not to justifie as we deserved, were very glad of those new lawes, and embraced the same wth joyfull hartes : and this caused those Lawes to be receaved so quietlie, wheras in times past many a bloudie battaile was fought before they receaved the cruell English Lawes and Lawgivers wherewth they were oppressed.”

I purpose in the following pages to trace in more detail, among other things, the steps in the development and success of this policy of associating a subject race with their own government—a policy which we have been of late years timorously and tentatively trying in India. The experiment was much in advance of any

conception of government that prevailed before that time. It was perhaps fortunate that the experiment was not first tried *in corpore vili*, on a people who had been rendered sullen and desperate, not only by long years of oppression, but by the fact that the reigning dynasty was alien in blood and sympathy. Happily in Wales, in spite of racial antipathies, there was a real attachment to and pride in the Tudor king, "bearing his name and blood from us."¹ No doubt that fact helped to make for the success of the experiment, but the success was none the less due to an inexorable and eternal law of human nature, which happened to be first put to the test in the case of Wales. Its shining success made it come to be regarded in after-times as an inspiration, and on the principles upon which Henry VIII. proceeded in his pacification of Wales has been based the stately edifice of the British Empire. There is no finality in human affairs, no rest for "the ever climbing footsteps of the world." O'Hagan, one of the poets of young Ireland, sang seventy years ago :

There never lived a nation yet
That ruled another well.

The rhetoric of the Irish "Rebel" has become the gospel of the League of Nations.

Even while we contemplate, with pride and thankfulness, the success of the partial experiment which was attempted in Wales, it is impossible to shut one's eyes to the fact that the result was not an unmixed benefit to Wales. In process of time the Welsh language, which has the longest literary tradition of any modern language in Europe, was dangerously, though happily

¹ Petition: set out in Lord Herbert of Cherbury's *Life of Henry VIII.*

not fatally, wounded in the house of her friends ; the self-respect of a proud and ancient race whose " frankness " in the presence of their superiors was remarked on with complacent satisfaction by Giraldus Cambrensis. was trodden under foot and almost destroyed ; the piety of a devout and religious people was undermined by the neglect of their new rulers ; the democratic culture, the secular possession and abiding glory of the Cymry, wellnigh disappeared under the blight of a fatuous policy of Anglicisation ; and the self-reliance of men who in Tudor times were of the Royal Tribe, and who before those days bore themselves with the proud self-esteem of men who had a stake in the land of their birth, gave way to unreasoning diffidence under the harsh land laws of the English and the cold indifference of the Stuarts and the Hanoverians. I hope, before my task is done, to show how, almost without any patronage from the State or any assistance from great and wealthy personages, but by their own native energy, this

Ancient folk speaking an ancient speech
And cherishing in their bosoms all their past,

have renewed their youth like the eagle and " kindled their undazzled eyes at the full mid-day beam " of high endeavour and adventure, and restored " the old fair treasure of their native speech " to its appropriate position, to be the study of the learned, the instructress of the young, and the familiar friend and companion of her gifted children.

CHAPTER I

WALES AFTER THE CONQUEST : 1282-1542

BEFORE the reign of Henry VIII. the Principality of Wales was much smaller and less important than the tract of country to which we apply that name. After the fall of Llewelyn in 1282 the Principality was annexed to the English Crown, and divided into the "three ancient shires of North Wales," viz. Anglesea, Carnarvon, and Merioneth. Flint, which was at one time treated as a parcel of the Palatine County of Chester, was finally annexed to Wales in the reign of Edward II. Carmarthen and Cardigan—the patrimony of the Princes of Dinevor—alone of the districts of South Wales, became shire-ground in the time of Edward I., with their own sheriffs and courts. The rest of Wales was known as "the Marches," which was under the rule of no less than 143 Lords Marcher. The distinctive mark of a Lordship Marcher was the castle, for it was the badge and symbol that the neighbouring lands had been won by conquest. "There is scarce a castle in Wales, being in number 143 castles, but is known at this day to have been builded by some English lord or other."¹ *Brevis domini regis non currit in Wallia* was true of all the Lordships Marcher except the County

¹ Owen's *Pembrokeshire*, pt. iii. p. III.

Palatine of Pembroke, "which was counted part of England, and therefore called Little England beyond Wales. Neither was there any sheriff or other officers of y^e king to execute any of y^e kinges writs or precepts in Wales. . . . Therefore these lordes themselves were forced of necessity to execute lawes of soverayne governors over their tenants and people in those strange countreys and lordships subdued by them." ¹

Naturally, as there were one hundred and forty-three Lords Marcher exercising semi-regal authority in various parts of Wales, great diversity of law and practice prevailed. Primogeniture prevailed in some lordships, while in others the old Welsh system of gavelkind survived. In some lordships the two systems remained side by side, the eldest son inheriting in the English portions of the march, while among the Welsh subjects of the land, the old Welsh custom still lingered. In other lordships again, though gavelkind prevailed, land would pass by feoffment, and not by surrender, and these were called "lands of English tenure and Welch dole." ² But "many lordes did utterly extirpat both Welsh lawes and Welsh dole, and wrought all as in England: and these matters and customs were permitted or denied in every lordship as pleased y^e first conquerors thereof." ³

The greatest of the Lordships Marcher were the County Palatine of Pembroke and the lordship of Glamorgan, which were organised on the same lines as English

¹ Owen's *Pembrokeshire*, pt. iii. p. 139.

² "Kyfraith Saesneg ag rhan Kymraig" (Owen's *Pembrokeshire*, iii. 148).

³ Owen's *Pembrokeshire*, pt. iii. p. 147.

counties.¹ The county of Pembroke was, however, less extensive than the English-speaking part of modern Pembrokeshire. It did not include Lamphey, Haverfordwest, Walwyn's Castle, Slebech, and Narberth. Dewisland was under the Bishop, and Kemmes was a separate lordship.² The Lordship of Glamorgan was also smaller than the modern county. The Lordship of Gower was outside its boundaries as well as the "Blaenau," the hill districts where the Welsh dwelt under their own chiefs and enjoyed their own laws and customs. The Lordship, from the time when Robert of Gloucester married Fitzhamon's daughter, became an appanage of the great western earldom. The Lordship proper, the *Corpus Comitatus*, consisted of thirty-six knight's fees which did suit to the castle of Cardiff, where the sheriff held his monthly court, and the Chancellor on the day following for "matters of conscience." The "members" consisted of the twelve chief lordships, which had like regal jurisdiction, except that a writ of error lay to the Chancery of Glamorgan, and that the suitors, and not the presiding officer, were the judges. The possessions of the Cathedral of Llandaff and of the religious houses were also held of the lord, who even claimed to have the gift of the bishopric. Both Palatinates were governed by the laws and customs of England.³ The old "shire-ground," consisting of the five "ancient counties" of North and South Wales, was administered, as far as might be, as if it was English

¹ Both Pembroke and Glamorgan were organised as shires long before the "Conquest" of Wales in 1282, the former as early as Henry I.

² Tout's "Welsh Shires," *Y Cymmrodor*, vol. ix. pt. ii.

³ Dr. Henry Owen, "English Law in Wales," p. 17; *Y Cymmrodor*, vol. xiv.

"shire-ground," though a modicum of Welsh laws and customs had been preserved by the Statute of Rhuddlan.

The towns were few, small, and of little importance. They sprang up around the baronial castle, and partook more of the character of English garrisons than of centres of trade and commerce. "Although most of the inhabitants of those towns are become now more Welsh in language and manner of living," wrote George Owen, in his "Treatise of the Lordshippes Marchers," "yet doe manye retayne y^e English names, and most places about those townes doe give great libertyes to Englishmen of those townes."¹ Some years earlier, in 1587, John Penry, the first Welsh Nonconformist, said that "there is never a market town in Wales where English is not as rife as Welsh." They held their liberties by charter from their lords, and were governed by mayors and bailiffs, or by stewards.

The existence of so many Lords Marcher, armed with such absolute authority, was a source of grave danger both to the king's power and to the good condition of the people of Wales. So powerful, indeed, did the Lords Marcher become, that, to an extent hardly appreciated by English historians, they turned the scale in every political crisis in England,² and made and unmade dynasties at their caprice. Edward I. was strong enough to maintain some semblance of authority over them.

¹ Owen's *Pembrokeshire*, pt. iii. p. 168. Cf. *ibid.* p. 103.

² Morris, *Welsh Wars of Edward I.*, p. 221. "Such a position (as Lord of Glamorgan) influenced the Clare's status as a feudal baion of England. A baron who owed to the King the service of more than four hundred and fifty knights, in addition to being Lord of Glamorgan, simply held the balance of power in any crisis against the Crown."

The first statute of Westminster (3 Edw. I. c. 17) enacted that the king who is sovereign Lord over all shall do right there (*i.e.* in the Marches) unto such as will complain; and after the death of Llewelyn, he showed that he did not intend them to be mere idle words. He actively interfered in the dispute which had arisen between the Earl of Gloucester as Lord of Glamorgan and the Earl of Hereford, and decided it as judge, as if the two earls were only ordinary subjects.¹ Edward III., who had in early life experienced the dangers that might arise to the English throne from the over-grown power of the Mortimers and the other Lords Marcher, enacted (28 Edw. III. c. 2) that "all the Lords of the Marches of Wales shall be perpetually attending and annexed to the Crown of England, as they and their ancestors have been at all times past, and not to the Principality of Wales." He, like his grandfather, was determined to show that the king had more than a mere semblance of authority over his subjects in the Marches. In 1331 he sent commissioners to inquire into the acts of Richard de Peshale and Alinia, his wife, the daughter and heiress of William de Breos, the Lord of Gower. But such occasional exercises of feudal suzerainty were not sufficient to keep the authority of the Lords Marcher within bounds. Mr. Justice Stephen² aptly compares their position to that of "the small rajahs to whom much of the territory of the Punjab and North-West Provinces still belong." Twenty-one of them sat in Parliament

¹ For a detailed and interesting account of Edward's attempt to curb the powers and privileges of the Lords Marcher by taking advantage of the feud between the two earls, see c. vi. of J. E. Morris's *Welsh Wars of Edward I.*

² *History of Criminal Law.*

in virtue of their Welsh lordships in the reigns of the first three Edwards, although, so destructive had been their wars, in the time of George Owen, "onlie Aber-gavenny att this day still continueth his place and name, and in y^e line and blood of y^e first conqueror thereof."¹ In the meantime they had played their vigorous and decisive part in the affairs of England. The House of York derived its chief support from Wales and the Marches, where, as heirs to the Mortimers, they were not only the most powerful of the Lords Marcher, but as the descendants of Gladys Ddu, the daughter of Llewelyn the Great, they were regarded with singular affection by Welsh bards and people.² Henry Bolingbroke was not only Duke of Lancaster, and in that capacity a Lord Marcher, but as Earl of Hereford he owned vast possessions in a district which was largely Welsh,³ and which was successfully claimed to be under the jurisdiction of the Court of the Marches until the Long Parliament. Warwick the King-maker was head of the great Marcher house of Neville; the Duke of Buckingham was Lord of Brecknock as well as chief justice and chamberlain of South and North Wales, and

¹ "Treatise of Lordshipps Marchers in Wales," Owen's *Pemb.* iii. p. 170.

² Cf. Petition in Lord Herbert's *Henry VIII.*: "For adhering to the House of York, which we conceived the better title, we conserved our devotion still to the Crown, until your Highnesses father's time, who (bearing his name and blood from us) was the more cheerfully assisted by our predecessors in his title to the Crown, which your Highness doth presently enjoy."

³ For the survival of Welsh as a spoken tongue in the Golden Valley and the Ross district of Herefordshire, see a note by Egerton Phillimore in Owen's *Pembrokeshire*, vol. iii. p. 264. See also Bannister's *Herefordshire* (Jakeman & Carver, Hereford).

his undoing was largely due to his failure to enlist the co-operation of Rhys ap Thomas in his adventure ;¹ and the later phases of the Wars of the Roses were to some extent a contest for supremacy in Wales and the Marches of the Yorkist and Lancastrian Earls of Pembroke. In truth, the Wars of the Roses were to an unsuspected degree a March quarrel. The political motive for their outbreak has always been regarded as inadequate. The ambition of Richard of York, and the fiery spirit of his son Edward, may account for the part they played ; but why should they have succeeded in embroiling all England in their rivalry with the House of Lancaster ? The key to the mystery lies in the politics of the Welsh Marches. There the Barons had been accustomed to private wars. After the rebellion of Owen Glyndwr, the country had never settled down ; the king's authority was shadowy, unreal, and seldom enforced ; each Lord Marcher did what seemed good in his own eyes. Henry of Lancaster and Richard of York were rivals in the Marches, and the Wars of the Roses were only March wars on a larger scale. The majority of the persons who were prominently engaged in them were Marcher Lords, or they held similar positions on the Scottish March. The troops employed were very largely drawn from the Marches of Wales. The scale was finally turned when Welshmen withdrew from their traditional loyalty to the House of York and transferred their allegiance to Lancaster. Had Prince Edward been spared after Tewkesbury, the course of English history might have been different. By his death Henry Tudor, "*hil Gadwaladr, paladr per*," " of the line of Cadwaladr of the beautiful shaft," became the representative of the

¹ See Gairdner's *Richard III.*, p. 219.

House of Lancaster. Howel Aerddren, in his "Ode to Patrick," *i.e.* Henry Tudor, sang :¹

Thy descent was purer than Baron or Duke's, for it fell from
a Briton.

Call the Welsh to thy side, and they will come to thee ;
Demand England under thee and the despoiling of her men.

The chance of avenging the Conquest of 1282 and of placing a Welshman of the royal line on the English throne was sufficient to rally all Welshmen to the Lancastrian standard. Hitherto they had been fighting for feudal lord or baron ; for a Mortimer, for a Neville, or a Fitz-alan. At Bosworth they fought for a kinsman of Glyndwr, for a prince descended from the royal stock of North and South Wales. The force of the popular enthusiasm carried the Welsh chiefs and the Lords Marcher on its sweeping tide. Buckingham plotted against Richard, and fled to his tenants at Brecon when pursued by the wrath of the king. Rhys ap Thomas of Dinevor, whose grandfather, Griffith ap Nicholas, had fallen for the White Rose at Mortimer's Cross,² cast aside the prejudices of his youth and cordially espoused the cause of Henry Tudor. No one can read the account of the landing of Henry at Milford Haven, of his progress through Wales gathering adherents, and of his crowning triumph at Bosworth Field, without being impressed

¹ "Ode to Patrick," Brit. Mus. Add. MSS., 14971 fos. 170 b, 171 b. I am indebted for this and other citations from the fifteenth century poets to an excellent unpublished paper by Prof. W. Garmon Jones, of Liverpool University, on "Wales in the Fifteenth Century." Prof. Garmon Jones has published some of his researches in the last volume of the *Transactions of the Cymmrodorion Society* (1917-1918).

² I am not convinced by Howell Evans's argument in his *Wales and the Wars of the Roses* that Griffith was a partisan of Lancaster.

with the fact that without the enthusiasm of his countrymen such an adventure would have been impossible. It is estimated that the total number of men whom Henry commanded at Bosworth was only five thousand.¹ He had had no time to collect troops in England, even had he been able to attract any adherents. The fortnight that had elapsed since his landing had mainly been spent in Wales. Lord Stanley, though married to Henry's mother, took no part in the battle. The desertion of Sir William Stanley, the Chamberlain of North Wales, which turned the fortune of the day, brought the Welshmen of North Wales to the support of their countryman. Sir William's subsequent career shows that he was no keen partisan of the Tudor. It is no mere conjecture, therefore, that his desertion of Richard was due to the temper of his Welsh followers. For years before the Welsh bards had been exhorting their countrymen to fight for the Tudor. In their mystical "*brudiau*," or rhyming prophecies, they had predicted the victory of Henry. He was the grandson of Owen Tudor, and was not Owen of the Red Hand to return from overseas to deliver his countrymen ?

Tame the Saxon, if thou livest, forgive not one single traitor ²

When the Bull comes from the far land of battle,

Let the far-splitting spear shed the blood of the Saxon on
the stubble.³

¹ Gairdner's *Richard III.*, p. 235. Of these, according to Polydore Virgil, five hundred had joined at Newport (Salop) under Sir Gilbert Talbot. What means Henry employed to gather Welsh troops may be inferred from a very curious letter which he sent to his kinsman John ap Meredith on his landing at Milford Haven, and which is given in Wynne's *History of the Gwydir Family*, pp. 55-6.

² "Ode to Patrick," *supra*.

³ Hist. Comm. Report, Peniarth MSS., p. 408. The contents,

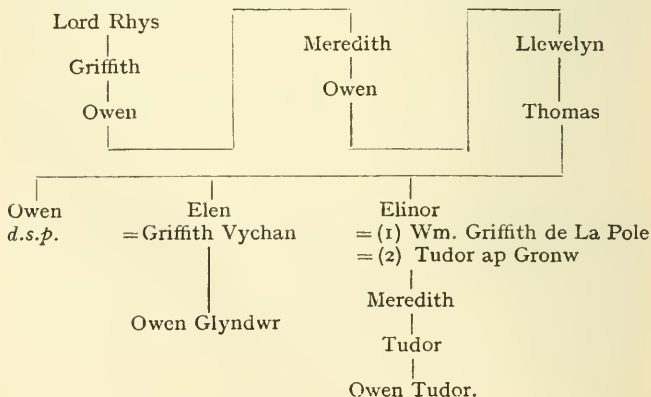
Such was the spirit of the exhortations which were addressed by the bards to their eager countrymen. In England Henry Tudor might be accepted as the representative of the Red Rose.¹ To Welshmen he was one of their own race. One of the three standards² under which he fought at Bosworth was the Red Dragon of Wales. Englishmen might regard his marriage with Elizabeth Plantagenet as the union of the two Roses. Welshmen regarded it as the union of the descendant of Lord Rhys of Dinevor with the heiress of Llewelyn the Great.³ Henry himself was careful to foster this

metre, and authorship show that it cannot relate to Llewelyn, but to the Tudors.

¹ Modern historians have doubted if the Lancastrians had adopted the Red Rose as their badge, but it is asserted that the Red Rose was the "Tudor Rose." See Evans's *Wales and the Wars of the Roses*, pp. 7-8.

² The first banner was emblazoned with the figure of St. George, the second with the Red Dragon of Cadwaladr, "a red fiery dragon beaten upon white and green sarkanet" (Hall, 423), and the third with the dun cow of the Tudors

³ The following table shows the Tudor descent from Lord Rhys



idea. He refused to base his title to the English throne only or mainly on his Lancastrian descent, or his Yorkshire marriage, or his parliamentary title. He claimed the crown of England by right of conquest. Alone of English sovereigns he was crowned on the field of battle. His first act on entering London was an assertion of his title by conquest. "He went first into St. Paul's Church, where, not meaning that the people should forget too soon that he came in by battle," said Bacon,¹ "he made offertory of his standards, and had orizons and *Te Deum* sung." Henry's insistence on his title by conquest has puzzled English historians from Bacon downwards, who have chosen to regard his accession as the natural and inevitable outcome of the Wars of the Roses. Henry himself never forgot his Welsh blood, or the services which his countrymen rendered to him at the crisis of his fortunes. After ascending the throne he sent a commission to Wales to inquire into and publish his Welsh descent. This is said to have been due to his sensitiveness to the charge that he was of a mean and ignoble lineage. It is more probable that he wished to proclaim to the world that he was descended from the Welsh princely line, and to conciliate the Welsh by showing that a descendant of Cadwaladr sat on the English throne. Mr. Pollard² has revived an old legend that the Tudors "were a Welsh family of modest means and doubtful antecedents. They claimed, it is true, descent from Cadwaladr, and their pedigree was as long and quite as veracious as most Welsh genealogies."³ It is, perhaps, little to the purpose to trace in detail the

¹ Bacon's *Henry VII.*, Spedding's edition, vol. vi. p. 32.

² Pollard's *Henry VIII.*, p. 5.

³ *Ibid.*

Tudor line. Suffice it to say that the Tudors were descended, though not in the male line, from the old Welsh princes. Mr. Pollard speaks of the worthlessness of Welsh genealogies. It is true that in Wales, as in England, pedigrees were forged, especially in the sixteenth century. But few Welsh scholars, who have consulted the genealogical poems of the fifteenth century bards, will be found to endorse Mr. Pollard's opinion. What is of interest is that Henry should have been anxious to proclaim his Welsh descent. He called his eldest son Arthur after the Cymric national hero. A foreign writer, writing in 1500, said of the Welsh that "they may now be said to have recovered their former independence, for the most wise and fortunate Henry VII. is a Welshman."¹ Henry VII. did not feel secure on his throne for many years. Bacon remarks that he never slaked in his hostility to the House of York. When the impostors, Lambert Simnel and Perkin Warbeck, invaded the realm, it was to Wales that he mainly turned for support. England had become to a large extent a settled country. Even the destructive Wars of the Roses had hardly affected the common people. So little interest was there felt in the quarrel that in the decisive and final battle of the war only some ten thousand combatants were engaged. But Wales was in different case. It was given up to the pursuit of arms as a profession. The restrictive acts of Henry IV., passed during and after the rebellion of Glyndwr, had gradually ceased to be operative. They were in any case only meant to apply to the old possessions of the Prince of Snowdon. The domains of the Lords Marcher

¹ *An Italian Relation of the Island of England*, published by the Camden Society.

were untouched by them. It is difficult to decide whether the "ancient counties" or the districts under the Lords Marcher were the most disturbed and distracted in the fifteenth century. In the previous century Dafydd ap Gwilym, and even Iolo Goch, who became the bard of Glyndwr, sang of a peaceful and industrious Wales. The rebellion of Glyndwr, the French Wars, and the Civil Wars that followed, had thrown the whole country into confusion and anarchy. The *History of the Gwydir Family* describes what took place in Carnarvon, which was "shire-ground." In the time of Henry VIII. Bishop Rowland Lee complained that Cardigan and Merioneth, though shire-ground, were not less disturbed than the Marches. In the anarchy that prevailed each Lord Marcher had become a semi-independent kinglet, who maintained a large retinue of armed followers. A malefactor had only to fly over the border of his lordship to be welcomed with open arms by a neighbouring Lord Marcher. "The government and royall jurisdiction of y^e said Lords Marchers (which was in most places executed most injuriouslie by bad partiall and covetous ministers) was found to be most noysome and rather a cause to urge ye subjects to rebell than to preserve and keep in quietness y^e country people."¹ In England, Henry VII. dealt vigorously with great nobles who kept too many retainers. In Wales he did nothing. He allowed Rhys ap Thomas to become the most powerful man that South Wales had produced since the Lord Rhys.² Sir Rhys's whole

¹ George Owen, *Description of Wales*, p. 20.

² Y Brenhin bia'r ynys
Ond sy o ran i Sir Rhys.

RHYS NANMOR.

force was always at the king's command, whether it was to put down a pretender or to aid his sovereign overseas. Henry VII. never forgot that Wales was the most martial portion of his realm; he tried to attach it to himself by appeals to its racial pride; and "gave in chardge to his soone Prynce Henry that he showld have a spetiall care for the benefitt of his owne Nation and Countrymen the Welshmen." ¹

THE COURT OF THE COUNCIL OF THE MARCHES

1471-1542

The first attempt to bring Wales into better order was made in the reign of Edward IV. True to the Yorkist policy of "governance," Edward determined to establish a Court in the Marches of Wales which would put down lawlessness with a strong hand, and, by bringing near to the people something in the nature of a centralised government, help to remove some of the evils under which the land was groaning. That the people of Wales, then as now, were amenable to good government is apparent from the complaints of the bards, who, martial though they were, showed that they were yearning for the dawn of better days. "Ni fyn un dyn ofni Duw," "there is none that will fear God," was the bitter complaint of Dafydd Llwyd ap Llewelyn. The story of the foundation of the Court of the Council of the Marches was sketched by Dr. Powel in his *History of Cambria* in 1584. Dr. Powel was in touch with Sir Henry Sidney and the other officials of the Court, and his account must have been derived from intimate contact with those who had made a study of its history. At all

¹ George Owen's "Dialogue" in Owen's *Pembrokeshire*, pt. iii. p. 39.

events it is certain that recent investigations have not materially corrected any statements made by the old historian, or added appreciably to our information.¹ "King Edward the Fourth," said Powel, "using much the faithfull service of the Welshmen meant the reformation of the estate of Wales, and the establishment of a court within that Principalitie, and therefore he sent the Bishop of Worcester, and the Earle of Rivers, with the Prince of Wales, to the countrie, to the end he might understand how to proceed in his proposed reformation. But the trowbles and disquietnesse of his owne subjects, and the shortness of his time sufficed him to doo little or nothing in that behalfe."²

It is now ascertained that the Prince's Court in the Marches was first constituted about the year 1471.³ But Edward IV. does not appear to have done much more than establish the Court at Ludlow. Of real

¹ The first attempt in recent times to investigate the story of "The Court of the President and Council of Wales and the Marches" was made by the late Judge David Lewis, whose valuable paper appeared in vol. x i. of the *Cymmrodor* magazine. This was supplemented by the extremely interesting "Further Notes" of Mr. Lleufer Thomas in the subsequent volume. Dr. Henry Owen's "English Law in Wales and the Marches," which has already been cited (vol. xiv. of the *Cymmrodor*), also dealt with the same subject. Still later, Miss Skeel has dealt exhaustively with the whole history of the Court in her learned and careful work entitled *The Council in the Marches of Wales*. Flenley's "Register" of the Council, published in the Record Series of the Cymmrodorion Series, provides valuable material, though most of it was foreign to the scope of this book.

² Powel's *History of Cambria*, p. 389. Miss Skeel conjectures (ch. i) that the Council arose out of the Prince of Wales's Council, which may have been in existence from 1284, but though this is not improbable, there is no evidence to bear it out.

³ Miss Skeel (p. 20) says : "It was clearly a development of the Council attached to the Prince of Wales," which had existed since the installation of Edward of Carnarvon.

power the Court seems to have had little. The youth of the prince, the novelty of the undertaking, and the indifference of the king, combined to make it of little importance in the "reformation of the estate of Wales."

Henry VII., like his predecessor, "using much the faithfull service of the Welshmen," put into effect the design of the Yorkist king. In 1493 he sent Prince Arthur to hold his Court at Ludlow, but it was only in 1501 that he began to develop his policy. In that year he sent a remarkable man, William Smyth, Bishop of Lincoln, to Ludlow as the first real Lord President of the Court of the Council of the Marches. "This Bushope," said Gerard in his *Discourse* already cited, "is the first Lord President of Walles found in the Recordes, who was sent by Henry VII. in the seventeenth year of his rayne to be Lord President of Prince Arthur's Counsaile in the Principalite of Walles and Marches of the same. And so continewed Lord President untill the 4th yare of Henry VIII. He was the founder of Brasenose College, Oxford."¹ The only record of the powers of the Council is to be found in Gerard's *Discourse*.² "They had instructions given them which was in effect to execute Justice upon all felons and prayers of Cattell in thenglishe adjoyning Counties upon all felonies there or in any parte of Wales comitted, to suppressse and ponishe by ffyne and ymprisonment Rowtes, Riottes, vnlawfull assemblies, assaultes, affraies, extorc'ons, and exac'cons and to heare the complaintes as well of all

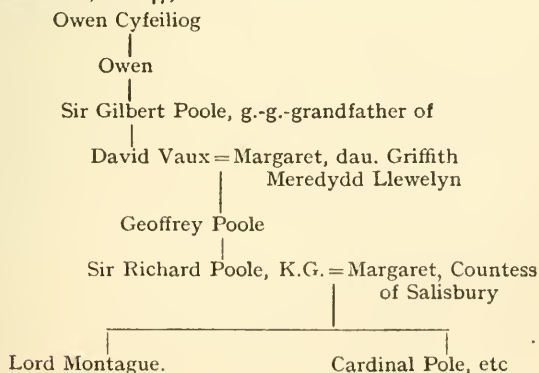
His portrait is in the Hall of Brasenose, where he is described as "primus Wallie praeses." Miss Skeel (pp. 22-24) states that Bishop Alcock of Ely, the founder of Jesus College, Cambridge, is really entitled to this honour. The date of his appointment is variously given as 1476 and 1478. He died at Wisbech in 1500.

² *State Papers, Dom.*, Eliz., vol. cvii. No. 21.

poor welshe personnes oppressed or wronged in any cause as to those enhabitinge in thenglish Counties adjoyninge. They had auctoritie by Comission of Oyer and terminer and speciall gaole deliverie throughout Wales and in those Englishe counties adjoyninge."

Dr. Powel adds that among "other wise and expert counsellors" the king appointed "Sir Richard Poole, his kinsman, which was his cheefe chamberlaine." Sir Richard Pole, the father of Cardinal Pole, was the lineal descendant of the Princes of Powys,¹ and would therefore have peculiar authority over the Welsh of Mid-Wales. Bishop Smith, true to Henry's policy of conciliating the Welsh, did not resort to coercive measures. He rather endeavoured to win the affection of his master's turbulent kinsmen by dispensing hospitality on a lavish scale at the Prince's Court, and by making the Welsh chiefs and the Lords Marcher feel that Arthur was not the representative of an alien authority, but was in

¹ As late as 1534 Martin de Cornoca reported that the whole of Wales was devoted to the house of Pole. (*State Papers*, vol. vii. 1040.) The genealogy of the Poles is thus given in the *Book of Golden Grove*, L 1647, now in the Record Office :



reality the Prince of Wales. That his administration was at least partially successful is evident from the increasing loyalty of Wales. "And soe the Government of Wales was continued under the Lords Marcher until the time of Henry VII.," wrote George Owen, "in whose time the Welshmen willinglie submitted themselves in hart to his highness being paternallie of their auncient princes of the British line, in such sort that they who in former times were termede soe disobedient to the crowne of England (and against whom the kings of England promulged such unnaturall and extreame lawes, as never did any prince did the like against his subjects) grewe so quiett that King Henry VIII. in his tyme did well perceave that the people and countrey of Wales might be governed by lawes as the subjects of England, and not by thraldome and crueltye used by the Lords Marcher."

George Owen, however, was speaking after the event. There were still many difficulties to be overcome, still many ghosts to be laid, before Wales was to be granted the boon of equal treatment with England. With the death of Prince Arthur, in 1502, King Henry seems to have lost his interest in the Court of the Marches. Young Henry was created Prince of Wales in 1503, but he never visited Wales or held his Court in the Marches. Bishop Smith, however, remained at his post till Henry VII.'s death in 1509. He continued, nominally, as president till his own death in 1514, but the latter years of his life were almost entirely spent in his diocese of Lincoln.

There was no break of continuity in the tenure of the presidency. Bishop Smith was succeeded by Bishop Blyth of Lichfield, and Bishop Vescie or Voysey of

Exeter. Henry VIII., in spite of his father's "charge," up to 1525 had paid little attention to the affairs of Wales. He had never visited the country, the Statute Book was bare even of mention of the affairs of the Principality, the Court of Ludlow became a mere shadow and a name. The king during the first years of his reign seems to have been content with playing the royal part in the national pageant. As he was willing to allow his foreign and domestic policy to be directed by Wolsey, so he was content to allow "Father Rhys," as he familiarly called Sir Rhys ap Thomas, practically to rule South Wales. Sir Rhys not only held the enormous Dinevor estates, but he was Chief Justice and Chamberlain of South Wales. The rest of Wales and the Marches were administered in haphazard fashion as in the days of his father. As long as Sir Rhys lived, the power of the Court of Ludlow over South Wales was of the most shadowy character. But in 1525 Sir Rhys ap Thomas died, and with him died the old order. There is nothing so remarkable in the history of Henry VIII. as the growth of his mind, of his power, and of his statesman-like vigour, almost every year after the first dozen joyous, careless years of his reign. It was, no doubt, the death of Sir Rhys that first directed his attention to Wales. He probably knew but little of the internal condition of the country. There are no records in the earlier *State Papers* of his reign dealing with the Principality. But by 1525 the masterful and jealous character of the king had begun to assert itself. Several years after, Sir Thomas More addressed a prophetic warning to Cromwell about the character of the master from whose service More was then retiring. "Master Cromwell," he said, "you are now entered into the

service of a most noble, wise, and liberal prince ; if you will follow my poor advice, you shall in your counsel-giving to his Grace ever tell him what he ought to do, but never what he is able to do. For if a lion knew his own strength, hard were it for any man to rule him.”¹ Ever since the death of Buckingham—more rapidly since the fall of Wolsey—Henry was learning what he could do. He realised that a despot must ever cut the heads of the tallest poppies. Wolsey he trusted fully almost to the time of his death ; More at one time he loved. All that we know of his bearing towards Sir Rhys ap Thomas goes to show that he looked upon him as a faithful and necessary minister for the government of Wales. But, with Sir Rhys’s death, Henry’s strong, vigorous mind began to address itself to the question of Wales. His first act was characteristic. He refused to continue Sir Rhys’s grandson—a young man who was married to a daughter of the second Duke of Norfolk—in his offices, but appointed Lord Ferrers of Chartley, afterwards the first Viscount Hereford, as his successor. He paid a visit in person to Ludlow, accompanied by his daughter Mary, who was unofficially styled the Princess of Wales. At Ludlow Mary remained till 1528, when she was recalled in disgrace owing to the king’s divorce proceedings against her ill-fated mother, Catherine of Arragon. It may be that the king’s only intention in and after 1525 was to curb the overweening power of the Dinevor family. But there is one reference in the *State Papers* which suggests that already, after the installation of the Princess Mary at Ludlow, the king was forming other and greater designs. In a letter dated 9th January, 1526, Lord Ferrers wrote to

¹ Roper, *Life of Sir T. More* (ed. 1729), p. 69.

the Lord President of the Council at Ludlow, that—
 “When his Lordship was first admitted Lord President of the Princess’s Council, my Lord Legate (Wolsey) instructed the writer and others of that Council that no subpoenae should be directed into Wales or the Marches, but every cause be first tried before the stewards and officers there, the appeal to lie afterwards to his Lordship and other Commissioners. Subpoenae are now served in Carmarthen and Cardigan, in spite of the proclamations, the like of which was never seen before.”

The writer concludes: “And now both shires saith plainly that they will not pay one groat at this present Candlemas next coming, nor never after, if any man do appear otherwise than they have been accustomed, but they had liever ryn into the woods.”

It would be interesting to know more of the circumstances attending this complaint. No reference is to be found to it later, and it would therefore seem that a stop was put to the attempt of the Ludlow Court to exercise original jurisdiction in the old counties and the Marches of Wales. But the fact that the attempt was made, soon after the king’s visit to Ludlow, is, perhaps, indicative of the ulterior object which the king had even then vaguely formed, but which was only destined to bring forth fruit after many days. Lord Ferrers was not only Chamberlain of South Wales, he was also a great Lord Marcher, and his letter breathes a spirit of jealousy of the Ludlow Court’s interference in the Marches as well as in the counties of Carmarthen and Cardigan. If Henry had formed any such design, he was constrained by the rapid course of great events in England to forgo it for the time. After the little flash

of energy displayed in 1526, the Court of the Marches sank once more into lethargy. In 1528, when the uncertain position of the Princess Mary had no doubt affected the authority of her Council, a petition was sent to Ludlow by the bailiff and burgesses of Brecon complaining that justice was not kept, that the king's tenants were impoverished, and his revenues decayed. The reply of the Council, while it indicates that the state of things was better than it had been, did not attempt to deny the facts mentioned in the petition. The circumstances, however, are too obscure to enable any conclusion to be drawn as to the powers which were vested in the Council over March land such as Brecknock, though the fact that the complaint was made to the Council indicates that it exercised some power in the Marches even in 1528.

The insurrection of Rhys ap Griffith, the grandson of Sir Rhys ap Thomas, at Carmarthen in 1529 served to bring home to the king the disorderly condition of the Principality.¹ It showed, too, that the Council of Ludlow was too weak to deal with such cases of turbulence. Lord Ferrers, as a Lord Marcher, may have disliked to enhance the reputation of the Council. It is certain at least that, for whatever reason, the young chief was sent to answer for his misdemeanours before the Star Chamber in London.² That the Council at Ludlow continued to be impotent in the face of the growing anarchy in Wales is shown by a letter of one Thomas Phillips to Cromwell, in 1531. It is interesting

¹ For an account of Rhys ap Griffith's "affray," see the writer's article in *Y Cymmrodor*, vol. xvi.

² It was, however, the general practice to bring the more important offenders before the Star Chamber. *V.* ch. iii. *infra*.

because, with the exception of the letters concerning Rhys ap Griffith's insurrection, it is the first intimation the English Government had of the real state of things in Wales. In it he pleads that such a Council be established in the Marches, that the best officer in Wales should quake if found in default.¹ A still more important letter, because it pointed out one of the defects of the existing system, was sent to Cromwell, in 1533, by Sir Edward Croft, an official of the Council, and Vice-Chamberlain of South Wales. Wales, he said, was "far out of order," and many murders in Oswestry and Powys had gone unpunished, because the President, being a cleric, had no power to inflict the penalty of death. He wished "some man to be sent down to us to use the sword of justice where he shall see cause, throughout the Principality. Otherwise the Welsh will wax so wild, it will not be easy to bring them to order again."² In the same year Thomas Croft wrote that "more than a hundred have been slain in the Marches of Wales since the Bishop of Exeter was President there, and not one of them punished."³

The prayers of Phillips and of the Crofts were speedily answered. In 1534 a man was sent to succeed the Bishop of Exeter as Lord President of the Council, who left the stamp of his personality upon it and its work, and who made the terror of his name felt through all the Marches of Wales. Rowland Lee, Bishop of Lichfield, only held the office of President for nine years, no long period in the life of a nation, but so dominant was his character and so unrelenting his energy that he

¹ *State Papers*, Henry VIII., vol. v. 991.

² *State Papers, Domestic*, Henry VIII., vol. vi. 210.

³ *Ibid.* 946.

will ever be regarded as the most famous in the list of Presidents, and as the administrator who left an abiding impress on the history of Wales. Gerard, in his second *Discourse*, describes him as "stowte of nature, readie witted, roughe in speeche, not affable to any of the walshrie,¹ an extreme severe ponisher of offenders, desirous to gayne (as he did in deede) credit with the king and commendac'on for his service." ² Froude states that he was "the last survivor of the old martial prelates, fitter for harness than for bishop's robes, for a court of justice than a court of theology, more at home at the head of his troopers chasing cattle-stealers in the gorges of Llangollen than hunting heretics to the stake, or chasing formulas in the arduous defiles of controversy." ³ He had come to the fore as Henry's agent in the divorce controversy and in the suppression of the smaller monasteries. It was believed that it was he who performed the marriage ceremony between the king and Anne Boleyn. Though he took the king's side against the Pope, he was far removed from Protestantism. One of Cromwell's correspondents calls him

¹ A characteristic story of Lee's treatment of the "Welshery" is given in Pennant's *Tour in Wales*, p. 17. "Before I quit the Housc (of Tremostyn) I must take notice that Thomas ap Richard ap Howel ap Jevan Vychan, lord of Mostyn, and his brother Piers, founder of the family of Talacre, were the first to abridge their name and that on the following occasion. Rowland Lee, President of the Marches of Wales, sat at one of the Courts in a Welsh cause, and wearied with the quantity of Ap's in the jury, directed that the panel should assume their last name or the name of their residence, and that Thomas ap Richard, etc., should for the future be reduced to the poor disyllable Mostyn, no doubt to the great mortification of many an ancient line."

² *State Papers, Dom.*, Eliz., vol. cvii. No. 10.

³ *History of England*, vol. iii. 229.

"an earthly beast, a mole, and an enemy to all godly learning into the office of his damnation—a papist, an idolater, and a fleshly priest." The stout bishop laid no claim to superior sanctity, or even to any rigid, ceremonious observance of the duties of his ecclesiastical position. "I was never hitherto in the pulpit," he wrote to Cromwell as late as 1534. But if he neglected his diocese and his priestly functions, he spent the revenues of his see in carrying out the duties of his secular office. He was not deterred by the old canonical rule that a cleric should not shed blood. His extant letters to Cromwell, giving authentic information to the Government, betray his qualities and their defects. His breezy personality, after the course of nearly four centuries, lives in and through them. He is thoroughly human, especially in his love for open-air sport. We find him sending to his patron a present of partridges, doubtless the prize of his own skill. In one letter he records that he has "just killed a great buck." In another he begs Cromwell to send to him "a warrant for a stag in the forest of Wyer."

Rowland Lee soon set himself to show the robbers and thieves of the borders that he was not afraid to inflict the death penalty. In July, 1534, we find him writing :

"The Walshe above Schroysbury be very besy, and as I am informed doo bryne divers howses and doo grett disspeles whiche cannot be withowte the consente of sum hedes, whose hedes if I may knewe justly the trenges I shall make ake and folew your preceptes, not thayreof to fayle, god beyng my good lorde."¹

By the following year he was able to report that the "Welshmen of Shrewsbury" had been brought "into

¹ *State Papers*, Henry VIII., vol. vii. No. 940.

a reasonable staye touching such robberyes and other malefacts as were there used," and that he had "hanged four of the best blood in the county of Shropshire."¹ In December, 1535, his activities ranged from Presteign and Hereford to Chepstow and Monmouth. In the following month he describes with great gusto the hanging of thieves at Ludlow on market day. "If he (*i.e.* the thief) be taken, he playeth his pageant." He feels that his stern policy of repression has made him a marked man, but he does not shrink from the dangers attendant upon his position. "Although the thieves have hangid me by imaginacion, yet I truste to be even with them shorteley in very dede." In June, 1536, he was in Montgomeryshire, where was gathered together "a certain cluster or company of thieves and murderers" whom he was resolved to put down. No doubt the rigour of his administration and the summariness of his methods have been exaggerated, both by contemporaries and by posterity. But the times were rude, and justice was at best but roughly administered. We may discount, with Froude, the statement that seventy-two thousand malefactors suffered the extreme penalty of the law in the reign of Henry VIII., but even so careful a writer as Stubbs speaks of Henry's "holocausts" of victims.² Similarly we may discredit the loose statement of Ellis Griffith, a contemporary soldier, who wrote an account of his own times, that under the bishop's rule, five thousand men were hanged in the Marches of Wales within the space of six years.³ When

¹ Nov. 6th, 1535; *State Papers*, vol. vii. p. 529, No. 1393.

² Stubbs's *Lectures on Med. and Mod. History*, p. 304.

³ Dr. Gwenogvyrn Evans, Introduction (p. x) to the Mostyn MSS. published by the Historical MSS. Commission.

one remembers that the population of Wales was only about one-sixteenth of that of England,¹ and that these victims were said to have fallen in less than a sixth of Henry's reign, and in only a part of what is now known as the Principality of Wales, the number of Welsh male-factors who fell victims to the good bishop's sense of justice becomes incredible. None the less, it is perfectly evident that thieves and murderers were hanged in batches, without respect of persons, and without very much regard for the forms of law. Lee was enjoined by Cromwell that "indifferent justice must be ministered to poor and rich according to their demerits." This injunction he faithfully obeyed, and for the first time since the death of Llewelyn the law began to be respected in Wales and the Marches. Gerard, in his *Discourse*, written thirty-two years after the bishop's death, gives unstinted praise to his administration. "They spent their holle tyme in travellinge yeerlie eythr throughe Wales or a great parte of the same in causes towching Civill government, and by that travell knewe the people and founde their disposicon, favored and preferred to auctoritie and office in their countreys suche howe meane of lyvinge soever they were, as they founde diligente and willinge to serve in discoveringe and tryinge owte of offences and offenders. They likewise deforced and discountenanced others, of howe greate callinge and possessions soever they were, beinge of contrarie disposicon. This stoute bushoppes dealinge and the terror that the vertue of learninge workethe in the subjecte when he perceiveth that he is governed

¹ "The whole population of England did not then (1515) in all probability much exceed 2,000,000" (Fisher, *Political History of England*, vol. v. p. 215). The population of Wales, on this estimate, would be about 125,000.

under a lerned magistrate, within iij or iiij yeres generallie so terrified theyme, as the verie feare of punishment rather than the desire or love that the people hadd to chaunge their walshrie wroughte first in theym the obedience theye nowe bee grown into. Then was this Counsell and theirre proceedinges as moche feared, revered and hadd in estimacion of the walshrie as at this daye the Starre Chamber of the English." ¹

Without subscribing to every word of this eulogy of the bishop and his coadjutors—putting a good deal of it down to the natural tendency of the official to magnify his office or the institution to which he belongs, and the attraction which anything in the shape of "strong and resolute government" has for a certain type of mind—it bears witness to the indelible mark left by Rowland Lee on the administration of Wales. Firm government, rigorous administration of justice, and absolute fearlessness in enforcing law and order were indispensable to Wales of that period; and those boons she obtained from Rowland Lee.

The condition of Wales, or of those parts of Wales visited by him, as described by the Lord President in his letters to Cromwell, was deplorable. In a letter, written in the first year of his presidency, he gives a graphic illustration of the state of the country. In the lordship of Magor alone there were at the time living unpunished, under the protection of Sir Walter Herbert, five malefactors who had committed wilful murder, eighteen who had committed murder, and twenty thieves and outlaws who had committed every variety of crime.²

¹ *State Papers, Dom.*, Eliz., vol. cvii. No. 10.

² Wright's *History of Ludlow*, 383.

The evils of "Arthel" and "Commortha" were rife. Both customs had an honest and legitimate origin. They had become a peril to the state. To "arthel" or "arddel" a man was to vouch or become surety for him or for his good behaviour. It was a recognised and indeed highly necessary procedure under the laws of Howel Dda.¹ It grew to be a gross abuse. The Lords Marcher "avouched" murderers and outlaws, and so surrounded themselves with a bodyguard of lawless ruffians. So deeply rooted and widespread was this evil that even the new Lord President found it impossible to eradicate it without having recourse to legislation. Section 13 of 26 Henry VIII., c. 6, which was passed in 1534, soon after Rowland Lee came to the Marches, was doubtless enacted owing to the representations of the bishop.

"And where heretofore upon divers Murthers, Robberies and Felonies perpetrated and done, as well within the Lordships Marchers of Wales as in other places in Wales without the same Lordships, the offenders divers Times flee and escape from the same Lordship or other Place where such offence was committed, and have repaired and resorted into another Lordship Marcher, and there by the aid Comfort and Favour of the said Lord of the same Lordship, or his Officer or Officers, have been abiding and resiant, into which Lordships the same Lords Marcher have and do pretend a Custom and Privilege that none of the King's Ministers . . . may enter to pursue apprehend and attach any such offender," it is enacted that the officers of the Council of the Marches shall have authority to follow the offender

¹ Wade Evans, *Welsh Mediaeval Law*, at pp. 88, 234, and 325; Owen's *Ancient Laws of Wales*, pp. 935-6.

and bring him back to the jurisdiction of the lord where the offence was committed.¹

The practice of Commortha (*cymhorth* = help) had its origin in the practice of co-aration—a custom which has to some extent survived even to our own times in rural Wales. “*Cymmorthas* are assemblies of people to assist a neighbour in any work.”² It was easy for the lawless Lords Marcher to take advantage of the old custom to further their own interests, or to make it a cloak to conceal an illegal assembly, or, sometimes, to extort an illegal exaction. So great had the evil become that by section 6 of the statute already referred to it was enacted “that no person or persons from henceforth, without licence of the said Commrs. in writing, shall within Wales or the Marches of the same, or in any Shires adjoining to the same, require, procure, gather, or levy any Commorth, Bydale, Tenant’s Ale, or other Collection or Exaction of Goods, Chattels, Money, or any other Thing, under colour of marrying, or suffering of their Children saying or singing their first Masses or Gospels of any Priests or Clerks, or for Redemption of any Murther, or any other Felony, or for any other Manner or Cause, by what Name or Names soever they shall be called . . . and that no Person or Persons shall hereafter at any Time cast any Thing into any Court within Wales,

¹ Bowen’s *Statutes of Wales*, p. 62. Cf. Judge D. Lewis to Walsingham in 1575: “The gt. disorders in Wales, specially in South Wales, have growen muche of late daies by retayners of gentlemen, whom they muste, after the manner of the countrey, bere out in all actions be they never so badd. They have also foster-brothers, loytering and idle kinsmen and other hangers-on. . . .”

² Fennant’s *Tour in Wales*, iii. 353. There was one exception in the statue to the prohibition of *commortha*, viz. in the case of the loss of property by fire.

or in the Lordships Marchers of the same, by the Mean or Name of an Arthel, by Reason whereof the Court may be letted, disturbed, or discontinued for that Time, upon Pain of one whole year's imprisonment."

In spite of this statutory prohibition, so inveterate was the custom,¹ that one George Matthew of Glamorgan obtained, in 1536, greatly to the Lord President's annoyance, the king's licence to hold Commortha. "He is so befriended," commented Lee in a letter to Cromwell, "that it will run through all Wales to his advantage to the amount of one hundred marks."

The abduction of heiresses, which is always a sign of social anarchy, was not uncommon, and was tolerated by public opinion.² Bishop Lee gives an account of the

¹ Though it was forbidden to gather a *Commorth* "under colour of marrying," it is curious to find that the practice (under the name of "taith" or "neithior") survived down to our own days. Judge D. Lewis in his letter to Walsingham (1575) states, that the idle kinsmen of gentlemen "when they have offended will be shifted to some friendes of theirs in another quarter, so as they will not be fownde to be ponished when time shall require, and in the meanwhile the gentlemen will practize an agreement with the parties grieved, and then because the loyterers have nothing of their owne the gentlemen must help them to a Comortha to satisfie the parties dampnified"; cf. *S.P.D.* Elizabeth, vol. cvii. No. 5, "Consideration of thinges to be reformed with the Counsell of the Marches of Wales." 4. "The kymorthas which was wont to be a benevolence is now grown to be partlie compulsorie by such as have riotously wasted their living, or have been greatlie charge to win their saffie for some heynous murther or felonie to the importunate charge of the best sort of men. And therefore worthie to be slaide, for the honest and simple are never relieved therebie."

² "This is a vice common to Wales, and for its reformation we caused the trial to be made, but all the honest persons we had appointed absented themselves" (Lee to Cromwell, 28th February, 1538). A generation ago it was still customary in some parts of Wales for the bride and bridegroom to ride away from Church, followed on horseback by their relations and friends—a relic of the time when brides were really abducted by the bridegrooms.

abduction of a widow named Joan ap Hoell from the church at Llanwarne by one Roger Morgan. In the following month the abductor was tried before a jury at Gloucester, and, to the bishop's intense chagrin, was acquitted.¹ "When it came to the trial of the Morgans," wrote Lee to Cromwell, "the rest of the gentlemen could not be found in the town by the sheriff, so were fain to take such as remained, who against the evidence acquitted the Morgans. . . . Mr. Justice Porte will confess the premises to be true, as I willed him and his associate at the assizes, Mr. Montague, to cess good fines upon the gentlemen that departed of their disobedience."² The unwillingness or fear of juries to do their duty honestly in such trials was notorious. "Though at the late Assizes (at Chester) many bills, well supported, were put into the 'greate enqueste' (grand jury), yet contrary to their duty they have found murders to be manslaughters and riots to be misbehaviours."³ The bishop promptly committed the grand jury to prison "for their lightness." He added, to defend himself against a possible charge of harshness, that if the country was to be kept in order, punishment must be inflicted, for by the common law things so far out of order could never be redressed—a summary of the absolutist doctrine of Tudor and Stuart statesmen.

Another story, which is given in some detail in the *State Papers*, presents a vivid illustration of the condition of Wales at the time. It relates to a scapegrace scion of a great Norman-Welsh family, Robert Stradling of Glamorganshire. His confession, taken at Bewdley

¹ *State Papers*, Henry VIII., vol. xiii. pt. i. p. 128, No. 37.

² Lee to Cromwell, *ibid.* vol. xiii. pt. i. 371

³ *State Papers*, vol. xiii. pt. i. 1411.

on 28th September, 1535, is thus summarised: "About two years ago took part with his father-in-law, Watkyn Lougher, who disputed certain lands with Charles Turbill. Confesses to having kept one Lewes of North Wales and one Griffith of Caermarthenshire, who robbed and murdered Piers Dere, for five or six weeks in his house, and they gave him one royal of Dere's. Killed Gitto Jenkyn, who quarrelled with him while coursing at the White Crosse, on the said lands in variance. Was outlawed, and to escape the search, boarded with six persons a balinger of Pastowe in the haven near the Abbey of Neath, and made the mariners put to sea for three weeks. Did no harm to anyone. Landed at Milford Haven, and went to Waterford in the latter end of April. Hearing that proclamations were made in Wales against him returned." ¹

Lee was no believer in any policy but that of repression. The common law was insufficient, and exceptional measures had to be taken. "If one thief shall try another, all we have begun is foredone." ² He tells with glee how he hanged a dead thief on a gallows for a warning, and how three hundred people followed to see the carriage of the thief in a sack, "the manner whereof had not been before." "All thieves in Wales quake for fear, and there is but one thief, of name Hugh Duraunt, whom we trust to have shortly. Wales is brought to that state that one thief taketh another, and one cow keepeth another, as Lewis my servant shall inform you." ³ Holding such views of the inadequacy

¹ *State Papers*, Henry VIII., vol. ix. 465. In the end Lee recommended him for the king's pardon, because he was "a proper man and a good archer and willing to pay a reasonable fine" (*ibid.* ix. 126, 150).

² *Ibid.* x. 454; 12th March, 1536.

³ *Ibid.* 31.

of the ordinary law, and of the necessity of stern and repressive administration, unhampered by the limitations of the common law, the Lord President cannot be regarded as the inspirer, or even a supporter, of the legislation of 1535 and 1542. The spirit and policy of the bishop are reflected rather in the legislation of 1534, which strengthened the arm of the Government in the repression of crime, and enlarged its powers to maintain law and order. It is beyond question that the bishop had no hand in any constructive legislation which had for its object the association of the people of Wales with the government of their country.

By 26 Henry VIII., c. 4, it was enacted that as "Divers adherents friends and kinsfolk to murderers and felons have resorted to jurors, and have suborned them to acquit divers murderers felons and accessories openly and notoriously known, contrary to equity and justice," power should be vested in the Lord President to send the recalcitrant jurors to prison ¹—a power which Bishop Lee was prompt to use, as we have seen, four years later at Chester.

Lee, so far from wishing to extend the common law of England to Wales, was rather disposed, as has already been seen, to suspend it altogether. Ellis Griffith expressly states that the statute 26 Henry VIII., c. 6 was passed at the instigation of Bishop Rowland. Its preamble describes, in sonorous English, the condition of Wales as viewed by him :

"Forasmuch as the People of Wales and the Marches of the same, not dreading the good and wholesome Laws and Statutes of this Realm, have of longtime continued and persevered in Perpetration and Commission of

¹ Bowen's *Statutes of Wales*, 58.

divers and manifold Thefts, Murthers, Rebellions, Wilful Burnings of Houses and other sclerous Deeds and abominable Malefacts, to the high Displeasure of God, Inquietation of the King's well-disposed Subjects, and Disturbance of the Public Weal, which Malefacts and sclerous Deeds be so rooted and fixed in the same people, that they be not like to cease, unless some sharp Correction and Punishment for Redress and Amputation of the Premisses be provided, according to the demerits of the Offenders,"¹ it is therefore enacted that all persons, when duly summoned, should appear at the courts within the Lordships Marcher upon penalty of a fine ; if any officers in the Lordships Marcher illegally imprisoned any person, the Council of the Marches should have power to levy a fine of not less than 6s. 8d. for every day of wrongful imprisonment ; no weapons should be brought within two miles of any court, fair, town, church, or other assembly ; no person, without the licence of the Council, should levy *commorth*, etc. ; *arthel* should be discontinued ; felonies committed in Wales should be triable in the next adjoining English county ; and the officers of all Lordships Marcher should aid in securing culprits fleeing from one lordship to another upon penalty of a fine.

Another enactment of the same year throws a significant light on the unruly condition of the Welsh border. By 28 Henry VIII., c. 11, Welshmen were punished for attempting any assaults or affrays upon the inhabitants of Herefordshire, Shropshire, or Gloucestershire, who had been " beaten, mayhemed, grievously wounded, and sometimes murdered," by one year's imprisonment " without redemption."²

¹ *Ibid.* pp. 54-62.

² *Ibid.* p. 63.



So far we may conclude, even if we had not the positive contemporary evidence of Ellis Griffith to the same effect, that the legislation relating to Wales was due to the initiative of the new Lord President. It was designed to deal directly and practically with the state of lawless anarchy which prevailed in Wales and the Marches. Its only object was to repress crime, and to punish offenders against the law. It showed no gleam of recognition of the fact that the condition of Wales was due to any other cause than the inherent viciousness of its inhabitants. "Malefacts and scelerous deeds" were so "rooted and fixed" in the people that only the most vigorous discipline could eradicate the evil. The laws to which Wales was subject were "good and wholesome," and all that was required was their more effective administration. Such, therefore, we may take it, was the policy of Bishop Rowland Lee, a strong man, a resolute administrator, imbued with a contemptuous pity for the "Welshery," honestly desirous of dragooning them into a better conduct and condition, but a ruler who lacked the higher qualities of statesmanship, not endowed with sufficient imagination to penetrate into the root and origin of the evils under which the country was suffering, or to "know what shall chance in time coming," and bereft of that sympathy with the subject people without which even justice loses its healing grace.

CHAPTER II

GRANT OF A CONSTITUTION

IN 1535 we notice a new spirit animating the policy of the English Government in Wales, a spirit wholly alien to the rough, practical, and unimaginative temper of the Lord President. Henceforward, in the legislation dealing with Wales there are evidences of a larger grasp, a more daring statesmanship, a more adventurous spirit to "make or mar."

The first Act of 1535 (27 Henry VIII., c. 5) empowered the Lord Chancellor to appoint Justices of the Peace for the eight ancient counties¹ of the Principality. The justices were authorised to hold their sessions and the sheriffs to execute their processes. At first blush this would appear to be only the characteristic Tudor remedy for the "indifferent ministration" of justice, but in reality it constituted a very real and even daring advance. To allow the law to be administered by Justices of the Peace was to allow it to be administered by men of Welsh descent and of Welsh sympathies. Up to that time, as George Owen points out, there was hardly a single Welshman entrusted with authority in Wales.

¹ The counties mentioned in the Act are Anglesea, Carnarvon, Merioneth and Flint in North Wales, and Cardigan, Carmarthen, Pembroke and Glamorgan in South Wales.

The "men on the spot" were filled with dismal forebodings as to the result that would ensue from the Government's rash proceedings. It may be that Bishop Rowland Lee was not consulted by the Government as to the administration of the law in the ancient shires, but he had an opportunity in 1536 of expressing his views as to the competence of the "Welshery" to be associated with the government of their own country. In that year John Scudamore, Sheriff of Hereford, wanted to know if he was to consider as shire-ground certain Marches of Wales annexed to his shire.¹ Scudamore, however, was suspect. He was a descendant of Owen Glyndwr, and was "dwelling nigh the Welshery and kynned and alyed in the same." So far from trusting the sheriff, Lee asked Cromwell that Scudamore should be put out of the commission.² "There are," the Lord President gravely informed the Secretary of State, "very few Welsh in Wales above Brecknock who have £10 in land, and their discretion is less than their land." By this time still further changes were in the air. The Act of 1535 had decreed that the rest of what is now called Wales should be turned into shire-ground. The good bishop is full of gloomy predictions as to "the bearing of thieves" if the statute goes forward. Cardigan and Merioneth, he points out, are as disorderly as the worst parts of Wales, although they are shire-ground.³ Even in the ancient counties themselves the Government's decision to appoint Justices of the Peace was viewed with dismay. Among the *State Papers* there is to be found a document entitled: "Articles proving that it shall be hurtful to the commonwealth of the three

¹ *State Papers*, Henry VIII., vol. xii. 1338.

² *Ibid.* xi. 1255.

³ *Ibid.* x. 453.

shires in North Wales, viz., Anglesey, Carnarvon, and Merioneth, to have justices of the peace therein." The justices will be dangerous, partiality will increase, the inhabitants are poor and quarrelsome, and most of the gentlemen are "bearers of thieves and misruled persons."¹ Sir Richard Bulkeley, of Anglesey, was of the same opinion, and begged Cromwell to stop the Lord Chancellor from appointing any Justices of the Peace within the three shires of North Wales.

The second Act of 1535 (27 Henry VIII., c. 7) abolished all the old cruel and barbarous forest customs, which enabled the Lords Marcher to punish persons who were travelling through a forest without a token, and without being "yearly tributors," with a "grievous fine or reward," and if twenty-four feet out of the highway, with forfeiture of their money or the loss of one of their hands.²

The preamble to the "Act for making of Justices of Peace in Wales" (27 Henry VIII., c. 5) stated that it was passed "to the intent that one Order of ministering of his Laws should be had observed and used in the same as in other places of this Realm of England is had and used." Henceforth that was the aim of English statesmanship. Henry VIII. and his ministers had a wholesome belief in the merits of English institutions. They had come to the conclusion that what was good for England was also good for Wales. They refused to credit "the Welshery" with a double dose of original sin. Shortsighted administrators and timorous officials warned them in vain of the folly of applying institutions, which might work well in orderly and civilised England,

¹ *Ibid.* xi. 525,

² Bowen's *Statutes of Wales*, pp. 69-72.

to a disturbed and lawless country like Wales. They refused to believe that Welsh gentlemen, when entrusted with the powers of Justices of the Peace, would prove more corrupt, more partial, or more negligent than their fellows in England. They showed a robust faith even in Welsh juries, in spite of Rowland Lee's sardonic comment that to set a Welshman to judge a Welshman was to set a thief to try a thief. At a time when the Lord President was only at the beginning of his task of repression, when courier after courier brought news of the disorderly and anarchical condition of the Principality, and when every official was calling for a more rigorous administration of the existing law, the English Parliament passed one of the most liberal and the most courageous Acts which has ever been laid to the credit of the British legislature.

27 Henry VIII., c. 26 (A.D. 1535), which finally incorporated Wales with England, is described as "An Act for Laws and justice to be ministered in Wales in like form as it is in this Realm." The preamble ran as follows :

"Albeit the Dominion Principality and Country of Wales justly and righteously is, and ever hath been incorporated annexed united and subject to and under the Imperial Crown of this Realm as a very Member and Joint of the same, whereof the King's most Royal Majesty of Meer Droit, and very Right, is very Head King Lord and Ruler ; yet notwithstanding because that in the same Country, Principality, and Dominion divers Rights Usages Laws and Customs be far discrepant from the Laws and Customs of this Realm, and also because that the People of the same Dominion have and do daily use a speech nothing like, nor consonant

to the natural Mother Tongue used within this Realm, some rude and ignorant People have made distinction and Diversity between the King's Subjects of this Realm, and his Subjects of the said Dominion and Principality of Wales, whereby great Discord Variance Division Murmur and Sedition hath grown between his said Subjects, His Highness therefore of a singular Zeal Love and Favour that he beareth towards his Subjects of his said Dominion of Wales, minding and intending to reduce them to the perfect Order Notice and Knowledge of his Laws of this his Realm, and utterly to extirp all and singular the sinister Usages and Customs differing from the same, and to bring the said Subjects of this his Realm and of his said Dominion of Wales to an amicable Concord and Unity, hath . . . ordained, enacted, and established " that Wales should be henceforth " incorporated united and annexed " to England, and that all natives of Wales should enjoy and inherit " all and singular Freedoms Liberties Rights Privileges and Laws " of his subjects.

All laws, including the law of inheritance, " without division or partition," were to be henceforth after the form of England.¹ Forty-four of the Lordships Marcher were united to English shires; certain others were

¹ This provision of S. 2 seems to be inconsistent with that of S. 35, which enacted that lands " to be departed and departable among issues and heirs male shall still so continue." " The intention evidently was," says Mr. Ivor Bowen in the Introduction to the *Statutes of Wales*, at p. 59, " that persons who retired upon any right under the ancient Welsh system of tenure were called upon to prove that it existed before the time of legal memory. The apparent variance was, however, remedied by the complete abolition of Welsh customs and rules of descent in 1542." But even after 1542 the Welsh custom of inheritance died hard. (See, *e.g.*, 7 and 8 William III., c. 38.)

united to the existing Welsh shires ; still others were to be " severed and divided into certain particular counties or shires," which were then for the first time created, viz. Monmouth, Brecknock, Radnor, Montgomery, and Denbigh. The boundaries of certain of the Welsh and Border counties were altered, and the Lord Chancellor was empowered to appoint Justices of the Peace for the four newly created Welsh counties. The justices and all officials were to use only English in discharging their duties, upon pain of forfeiting their offices.

" No Person or Persons that use the Welsh Speech or Language shall have or enjoy any Manner Office or Fees within this Realm of England Wales or other the King's Dominion, upon pain of forfeiting the same Offices or Fees, unless he or they use and exercise the English Speech or Language." ¹

The Lord Chancellor was authorised to appoint Commissioners to divide the shires of Carmarthen, Pembroke, Cardigan, Monmouth, Brecknock, Radnor, Montgomery, Glamorgan, and Denbigh into hundreds, and another Commission to inquire " all and singular Laws, Usages

¹ Though S. 20 has never been abolished, and it would therefore appear to be illegal to conduct proceedings in a law court in Welsh, it has, perhaps, never been rigorously enforced, and of late years it has become practically obsolete. Of one Edward Davies, Gerard wrote to Walsingham, in 1575 : " He hath been the Queen's Attorney in the marches and is well learned and can speke the Welche Tonge, but no Welche man. Note that it were verie conveniente that one of the Justices of assizes did understande the Welche tonge, for now the justice of assize must vse some interpretor. And therefore many tymes the evidence is tolde according to the mynde of the Interpretor whereby the evidence is expounded contrarie to that wch. is saide by the examynate, and so the Judge gyveth a wronge charge." The practical " convenience " of a Judge being acquainted with Welsh has long been recognised in the appointment of County Court Judges in Wales.

and Customs used within the same Dominion and Country of Wales," and such as may be thought by the King and Council "requisite and necessary" should remain.¹ For the first time parliamentary representation was given to Wales²—one knight to sit for each of the shires, except Monmouth, which had two representatives, and one burgess for each shire town, except the shire town of Merioneth, which was exempted from the privilege. "Such fees as other Knights and Burgesses of the Parliament have been allowed" were to be paid to the new members; so that the representatives of Wales were the first members of Parliament for whose payment express statutory provision was made.³ The rights and privileges of the Lords Marcher were swept away, except that they were to continue to hold Courts Baron Courts Leet, and Law-days, and to retain certain privileges, such as treasure-trove.

With the usual confidence of Henry VIII.'s Parliaments in the sovereign, power was granted to the king for three years after the dissolution of Parliament to suspend or repeal the Act. It is a tribute to the success of the Act that the king never used the authority entrusted to him by Parliament. As has already been

¹ No records of these Commissions are extant, though S. 3 of the Act of 1542 would seem to imply that, at least, the first set of Commissioners did their work. Rowland states, in his *Mona Antiqua*, copies of the proceedings of the Commissioners were deposited in both the chamberlain's and auditor's offices of North Wales; and that Sir W. Griffith of Penrhyn caused them to be transcribed by one Jenkyn Gwyn, and that they are intituled "the extent of North Wales."

² Except in two of Edward II.'s Parliaments, in 1322 and 1327.

³ By 35 Henry VIII., c. 11, provision was made for the payment of 4s. to every knight of the shire, and 2s. a day "unto every Citizen Burgess" from Wales by the Sheriffs and Mayors.

seen, neither Bishop Lee nor the other officials were enamoured of the liberal policy embodied in the Act, and they advised the king to postpone the appointment of Justices of the Peace. But, as far as is known, not even the Lord President went to the length of advising the king to repeal the Act, although he had appealed to Cromwell not to let "the Statute go forward." In the following year (1536) a short Act was passed giving power to the king during the next three years to determine the limits of the Welsh shires, and to name the shire towns (28 Henry VIII., c. 3). For some reason or other—partly no doubt owing to the lack of sympathy with the policy felt and expressed by Bishop Lee and the other officials—it was found impossible to get the work done within the prescribed time. In 1539 it was found necessary to extend the time for another three years (31 Henry VIII., c. 11), and it was only in 1542 that the last of the three Acts which created modern Wales was passed.

34 and 35 Henry VIII., c. 26 (1542-3), "An Act for certain ordinances in the King's Dominion and Principality of Wales," marked the passing away of the old order and the old school of statesmanship. It did away, finally and completely, with the Lordships Marcher, and with the abuses which were associated with their existence. It gave to Wales the geographical limits which she still retains, and though the institutions which it established have now disappeared, they existed, one for a century and a half, and another for wellnigh three centuries.¹ It made the "resolute Government" of Bishop Lee unnecessary and anomalous, and Wales neither saw nor required his like again. The stout

¹ Denbighshire was formed out of the Hiraethog district

bishop's friends and coadjutors did not live to see the end of their order. Mr. Justice Englefield, "for lernnige and discreete modest behavoor comparable with any in the Realme," had died in 1537. Bishop Rowland had felt his loss keenly, and begged Cromwell to replace him with "someone of lerning and experience. I shall do my part while my rude carcass shall endure. Remember the commonwealth of these parts, which if I have not help will decay again." In 1539 Sir Richard Herbert died—"the best of his name I know," said Lee. "I have as great a loss of him as though I had lost one of my arms in governing Powes, Kery, Kedewen, and Cloonesland." Next year he lost Sir William Sulyard and Mr. Justice Porte. Nor did the good bishop himself long survive his colleagues. The toil, which he said had "brought many honest men to their death," was soon to bring his own "rude carcass" to the dust. About the end of January, 1543, he died at the College

between the Conway and the Clwyd, the lordships of Denbigh and Ruthin, and Welsh Maelor.

Montgomeryshire out of Arwystli and Cyveiliog.

Radnorshire out of Melenydd and Elvel.

Brecknockshire out of the old lordships of Brycheiniog.

Monmouthshire out of Gwent, and the Gwynllwg portion of old Morgannwg.

To the old county of Glamorgan was added Gower; to Pembroke the Welsh tract (old Dyved) between Haverfordwest and the Tivy; to Carmarthenshire Llandovery and Abermarles in the Vale of Towy and Laugharne in the West, and Carnwyllion and Kidwelly in the South; to Cardiganshire the lordship of Tregaron; and to Merionethshire the lordship of Mawddwy.

Of the 136 Lordships Marcher mentioned in the Act, Miss Skeel computes that 52, as well as Arwystli and Cyveiliog, had fallen to the Crown. The most important still in the hands of Lords Marcher were Molesdale, Hopedale, and Ellesmere in the possession of Lord Derby; Raglan, Chepstow, and Gower in the possession of Lord Worcester; and Powysland in the possession of Lord Powys (p. 292).

of St. Chad's, Shrewsbury, of which his brother was dean, and was buried in St. Chad's Church. He died at the zenith of his fame, when his work was done. He had upheld the arm of law and order in a time of anarchy. He had carried the terror of his name to the wilds of Melenith and Arwystli. He had meted out justice without favour, if without mercy. By the success of his stern administration he had made it possible for the far-sighted statesmen of Henry VIII. to apply to Wales the healing policy of trust and confidence. Had he failed, the concessions of 1535 and 1542 might have been made impossible, because they would almost certainly have been misunderstood. He had bridged over the transition period between chaos and ordered liberty. He died at a fortunate juncture for his after-fame. He disliked and distrusted the policy of which the Act of 1542 was the climax and the coping-stone.¹ His distrust of "the Welshery" was ineradicable, and he was too old to learn the lesson which not even the genius of Burke or the eloquence of Bright has sufficed to make clear to the world: that force is no remedy, and repression is "ill husbandry." He had done what he could to postpone the day when Wales would be on a political equality with England. Had he survived, it may well be doubted if he would not have retarded rather than expedited the development of Wales into a law-abiding and contented portion of the realm. His rough-and-ready methods, however admirable in times of anarchy,

¹ The bishop was asked in 1540 to set the Commissioners to work on the delimitation of Denbighshire and to give his opinion as to the expediency of the change. He sourly replied that he was not privy of any such commission, and trusted that his opinion would not be required, "for I am not of that perfectness to know what shall chance in time coming."

would have provoked hostility to the law in the brighter days that were about to dawn on Wales. His rude justice would have inevitably brought him into conflict with those who were to be responsible for the government of the new Wales. He had little faith in Justices of the Peace or in jurors, and doubtless he would have used the supervising powers of the Court of the Marches to the utmost in order to restrain what, to him, would appear the partiality of justices or the corruption of juries. His court at Ludlow was modelled on the example of the Star Chamber. For at least a century after his death it was, if not popular, at least not actively unpopular in Wales. Down to the reign of James I. it undoubtedly did valuable work in the Principality. This it was able to do because it was neither meddlesome nor mischievous. It worked harmoniously with the ordinary courts, and it did not interfere unduly or capriciously with the discretion of Justices of the Peace and other officers of the law. But with a suspicious and sceptical Lord President at Ludlow, things would have fared very differently, and Bishop Rowland would probably have involved the Court of the Marches in as much unpopularity as afterwards brought about the downfall of its exemplar and prototype, the Star Chamber.

The Act of 1542 consists of one hundred and thirty sections. It recites that it was passed "at the humble suit and petition" of the people of Wales, but no record of the petition is extant.¹ By dividing Wales into twelve counties, Monmouthshire, which was and has continued to be Welsh in blood, sympathy, and, until

¹ Unless it be the petition already cited from Lord Herbert's *Life of Henry VIII.*

lately, to a large extent in language, was excluded from the geographical area of the Principality.¹ The twelve counties of Wales were to consist of the eight ancient shires and counties, and the four new shires created by the Act of 1535. The division of the shires into hundreds by the Commission appointed under the previous Act was confirmed. By section 4, statutory recognition was accorded to the Court of the Council of the Marches :

“ There shall be and remain a President and Council in the said Dominion and Principality of Wales, and the Marches of the same, with all Officers, Clerks, and Incidents to the same in Manner and Form as hath been heretofore used and accustomed ; which President and Council shall have Power and Authority to hear and determine, by their Wisdoms and Discretions, such causes and matters as be or hereafter shall be assigned to them by the King's Majesty, as heretofore hath been accustomed and used.”

It is true that in previous statutes, such as 26 Henry VIII., c. 4, and 26 Henry VIII., c. 6, the Court and the Lord President had been mentioned, and to some extent therefore their existence and powers had been regularised. But the Councils of the North and of the West (the former of which had been created by the king after the suppression of the Pilgrimage of Grace in 1536) had

¹ It is curious with what persistence the people of Wales have clung to Monmouthshire as a Welsh county. George Owen, in his “ Dialogue ” (Owen's *Pembrokeshire*, pt. iii. p. 39), speaks of Wales as having been divided into thirteen counties. Shakespeare makes Fluellen speak of Monmouth as a Welsh town. Stephen Hughes, in the preface to one of his publications printed in the reign of Charles II., refers (as is commonly done in Wales still) to the thirteen counties of Wales. Of recent years, for the purposes of educational administration, Monmouthshire has been recognised as forming part of Wales.

been mentioned, together with the Ludlow Court, in the Subsidy Act of 1540 (32 Henry VIII., c. 50, which was not enrolled in Chancery). But they were simply mentioned as being a source of expense to the king, though the existence of the Ludlow Court is justified on the ground that poor and rich thereby "have undelayed Justice daylye administered unto them." But the direct and regular recognition in the statute of the Court of the Marches, which had been called into existence by the exercise of the king's prerogative, placed it in a different category from the Council of the North and the Star Chamber. It fell, with the other prerogative courts, before the reforming energy of the Long Parliament; but, while the others fell to rise no more, the civil jurisdiction of the Court of the Marches was revived at the Restoration. It was only after the Revolution of 1688 that it finally passed out of existence.

Side by side, however, with the Court of the Marches, there was created a new system of courts, called "the King's Great Sessions in Wales," which will be described in further detail in another chapter. Sheriffs for each of the twelve counties were to be appointed yearly by the Crown out of three names which were to be submitted by the President of the Council. The sheriffs were to hold their County and Hundred Courts monthly, and over their actions the President and the Council kept strict observation. Nearly all the Welsh sheriffs were members of the Council, and they were bound to execute all lawful commands of the Lord President and the Council. If we may trust the "Dialogue" of George Owen, which contains the best description we have of the functions of the Council of the Marches and its relations with the other local courts and officials of

Wales, sheriffs had tried, by placing a wrong construction on sections 73 and 74 of the Act of 1542, to erect new Hundred Courts for the purpose of extortion. The Council had fined sheriffs for such practices, and in Brecknockshire, at least, the evil had been nipped in the bud. But, up to the last days of the Council, its relations with the sheriffs were not cordial, and during the presidency of the Earl of Bridgwater (1631) there were instances where the sheriffs flatly refused to carry out the Council's orders.¹

By section 53 it was enacted that Justices of the Peace and of the Quorum, and one *custos rotulorum*,

¹ George Owen, in his "Dialogue of the Government of Wales" (Owen's *Pembrokeshire*, ii. 63-81), gives a full and interesting account of the abuses arising out of the establishment of Hundred Courts in Wales. There were, he says, 23 such Hundred Courts or "commots" held in the ancient counties of North Wales before 1542, but there were no Manor Courts, no Courts Baron (*i.e.* Court of the freeholders of the Manor), or Courts Leet (*i.e.* manorial courts of criminal jurisdiction which were granted to particular manors by the Crown) held therein. The intention of secs. 72 and 73 of the Act of 1542 was to preserve these ancient courts, but to direct that henceforth they should administer the English law after the English usage. Until the end of the reign of Mary, no attempt was made to set up Hundred Courts in the new Hundreds which had been constituted by Henry VIII.'s legislation. In the reign of Elizabeth, however, Hundred Courts were set up in the new Hundreds, and as they were held every fortnight, whereas the County Courts were only held once a month, the Hundred Courts were thronged with suitors, whereas the County Courts—which were far and away the best of the "base courts" (*i.e.* courts not of record)—were deserted. He describes, as an eye-witness, the evils which resulted. The Hundred Courts were presided over by the Under-Sheriff, the procedure was imperfect, "embracery" (*i.e.* corruption of juries) was universal, and oppression was rife. The Council of the Marches had interfered with good results in Brecknock, Glamorgan and Montgomery, and the Chief Baron, when on circuit in Monmouthshire, had summarily put an end to the abuse in that county. But he complains that in the rest of Wales the evil was still rampant.

should be appointed for each county by the Lord Chancellor, on the advice of the President and the Council. By section 55 the number of such justices was limited to eight for each county—no doubt on account of the difficulty which was experienced, or feared, of finding a greater number of men of substance, position, and education to fill such posts. The limitation on the number of justices was not removed till 1693 (5 William and Mary, c. 4). The Justices of the Peace were to hold their sessions four times a year. The Lord President was, in practice, the Lord-Lieutenant for the twelve counties of Wales, and most of the high officials of the Council were on the commission of the peace for each of the Welsh counties.

A very salutary jurisdiction was exercised by the Council over the various borough courts of Wales. George Owen, in his "Dialogue," complains that there were too many corporate towns in Wales having private courts of record for personal actions to any amount. "There are in Wales yet (1594)," he said, "a multitude of very meane villages scarce having six houses or cottages, and yet are allowed for Corporations and Boroughs." As the Council had an appellate jurisdiction in personal actions, it was able to mitigate the evils resulting from the multiplicity of obscure borough courts, and in time these courts seem to have entirely disappeared.

By section 68 it was enacted that two coroners should be elected in each shire as in England, and by section 70 the Justices of the Peace were empowered to appoint two chief constables for the hundred wherein they dwelt.

Though justice was to be generally administered according to the English law, it was thought expedient

to enact in particular that the old Welsh law should be superseded in two points. By section 84 it was forbidden to put a murderer or a felon to his fine, and by section 100 private arrangements between parties in cases of murder and felony were made punishable by fine and imprisonment at the discretion of the President and the Council. By sections 91 and 128 gavelkind was abolished, and the English law of descent was specifically introduced into Wales.¹

Such, in its main outlines, was the policy, daringly conceived and consistently carried out, which reduced Wales, in the course of a single generation, to a state of order and obedience to the law. It associated the people of Wales with the government of their own country. Justices of the Peace under the Tudors were invested with far greater powers than they are in our own days.² They formed the permanent and almost the only machinery for local government in their counties, and though their actions were subject to the supervision of the Council at Ludlow, in ordinary circumstances they were supreme in their own sphere. They

¹ The full text of the statute will be found in Bowen's *Statutes of Wales*, pp. 101-133.

² George Owen in his "Dialogue" (Owen's *Pembrokeshire*, vol. ii. p. 60) enumerates the functions of Justices of the Peace in those days (1593). In their Quarter Sessions (held four times a year) they bound persons over to keep the peace, they dealt summarily with the lesser felonies and committed the graver felonies to the Great Sessions; they tried cases of trespass, assaults, affrays, riots, routs, unlawful assemblies, embraceries (*i.e.* attempts to corrupt juries), maintenance; they licensed and regulated ale-houses; they punished persons indulging in unlawful games; they took order for servants' and labourers' wages and covenants (5 Elizabeth, c. 14, s. 15), "and a multitude of other matters are referred to the hearing and examining of those Justices of the Peace both in their Sessions and out of their Sessions tending to the good and quyet government of the Cuntrey."

were not only conservators of the peace, but to them was entrusted the duty of appointing local officials, and to discharge the functions now vested in County and District Councils and Quarter Sessions. Individually, also, each had jurisdiction over all minor offences in his own district. In the time of Henry VIII. the Welsh gentry had not become anglicised either in speech or sentiment or habits. Henry VII., who was brought up at Raglan Castle under the tutorship of William Herbert, first Earl of Pembroke, of the first creation, never lost his interest in Welsh poetry, and after he had come into his kingdom, he sometimes called in "Welsh rhymers" to charm away the brooding melancholy which the cares of state cast upon his spirit.¹ The Welsh traditions of the Herberts survived into the next century. Dr. Griffith Roberts of Milan, in dedicating his Welsh grammar to William Herbert, the first Earl of Pembroke of the second creation, holds him up as an example to the other gentlefolk in Wales, and states that whenever the Earl met a countryman in court, he always addressed him in his native tongue.² In the next century, Lord

¹ *Polit. Hist. of England*, vol. v. (Fisher), p. 150. In Dec. 1485 Henry granted £20 a year to Philip ap Howel and his wife "some-time our nurse" of Carmarthenshire.

² "Canys e wyr holl gymru a lloegr faint ych serch i'r fruttaniaith, pryd na ddoedech wrth gymro ond cymraeg, ie, ymysg penaduriaid y deyrnas" (1565). William Llŷn, in his elegy (1570), said of the Earl:

Pe bair Iarll pybyr i win
Oll ger bron Lloegr ai brenin
Doeded ef a di dafar
Gymraec wrth Gymro ai gar.

(*Barddoniaeth William Llŷn*, ed. Morice, 1908, p. 73.) Hopcyn, in the Introduction to *Hen Gwndidau* (p. xli.), without, however, giving his authority, states that the Earl was himself a poet, and composed *inter alia* two Welsh Triads, one of which was as

Herbert of Cherbury records that he was sent in his youth to live in Denbighshire in order that he might learn Welsh.¹ If the magnates were so Welsh in tongue and sympathy, the smaller gentry in the time of Henry VIII. may be presumed to have even more Welsh and less English. They were not rich—Bishop Rowland Lee exclaimed that from Brecknock to the north there were no “Welshery” who were worth £10 a year in land.² Alien officials thought that they would be therefore more prone to be influenced by corrupt and sinister motives in carrying out the duties of administration. They were not “educated,” in the sense in which the word would be used in England. It was indeed an audacious experi-

follows: “The three things that make a man wise are: the genius of a Cymro, the courtesy of a Frenchman, and the industry of a Saxon.” Sir Owen Edwards (*Wales*, p. 326) states that the only language he knew well was Welsh. Miss Skeel (p. 82) goes further, and says that “in the Calais negotiations in 1555 he was nearly useless”—on account of his imperfect knowledge of English—a statement, having regard to the many years spent by the Earl in England and France, which is frankly incredible. Miss Skeel cites no authority for her statement.

¹ *Autobiography*, p. 24.

² 18 Hen. VII. c. 11, recites that some of the Justices of the Peace be of small behaviour (substance) by whom the people will not be governed nor ruled, and some “for their necessity do great extortion and oppression upon the people,” and enacts that no Justice of the Peace be assigned “if he have not lands or tenements to the value of £20 by year.” Bishop Lee had this statute in mind when he said that no Welshmen above Brecon had £10 a year. The statute 34 and 35 Hen. VIII., c. 26, s. 56, recognised the truth of this observation, and enacted that Justices of the Peace shall be of “good name and fame” and may exercise their office “albeit they may not dispend £20, but be learned in the laws of the land.” By the end of the century, however, so greatly had Wales prospered, that George Owen thought the same property qualification could well be exacted in Wales and in England. (See “Dialogue” in Owen’s *Pembrokeshire*, vol. ii. pp. 56-7.)

ment to entrust such extensive powers, subject to little supervision on the part of the central authority, to such persons.

Similarly trial by jury was introduced into the whole of Wales, into the counties where "malefacts and scelerous deeds" were rife as well as into the more settled counties of Glamorgan and Flint.

Last but not least, parliamentary representation was given to Wales. It is a proud reflection that Wales is England's oldest ally and partner in her resplendent career. At a time when Scotland was an independent and hostile kingdom, and when the greater part of Ireland was given over to the "Wild Irish," and the English Pale, though represented in a Dublin Parliament, was enjoying only constitutional privileges as limited by Poynings' Law, Wales entered into the full inheritance of the English Constitution. Her sons sat shoulder to shoulder with the knights and burgesses of England, as they wrought to fashion a new order and a new society. With them they faced and solved the ever-changing problems and difficulties of a transitional era. They helped in the various settlements of religion, under Henry VIII., under Mary, under Elizabeth, and under Charles II. They shared in the anxieties that racked this kingdom when Philip II. was preparing to launch the invincible Armada. They played their valorous part on land and sea

When lofty Spain came towering up the seas
This little land to daunt and quell.

The Members for Wales shared in the great struggle for constitutional rights which was the outstanding feature of Stuart politics—rights which will soon become

the common heritage of the world. Most of them, and most of their countrymen, took the king's side in the Puritan Rebellion ; but if a Welshman was the last to hold out for the king at Harlech, if Judge Jenkins of Hensol defied the House of Commons at its own bar as a den of thieves, responding to the threat to hang him by saying that he would hang with the Bible under one arm and Magna Carta under the other ;¹ Thomas Wogan, Member for Cardigan, and John Jones of Maes-y-Garnedd, Member for Merioneth, were among those who signed the death-warrant of Charles, and the names of Sir Thomas Morgan and Philip " Lord Jones," of Walter Cradock, Vavasour Powell, and Morgan Llwyd, of William Erbury and Christopher Love, are sufficient to prove that not all the best Welshmen were arrayed against the cause of Parliament.² Nor did Welshmen abstain from shouldering the burden of colonising the New World. In New England and in Virginia there are still to be found families who are proud to trace their descent from early Welsh settlers. When the illustrious Bacon, " the greatest intellect that ever combined power

¹ Owen Edwards's *Wales*, p. 373.

² The following Welsh Members were Royalists : William Herbert (Cardiff) and Charles Price (Radnorshire), who both fell in the war ; John Bodville (Anglesey), William Price of Rhiwlas (Merioneth), Richard Herbert (Montgomery), Henry Vaughan of Derwydd (Carmarthenshire), Francis Lloyd of Maesvelin (Carmarthen), Sir John Stepney (Haverfordwest), Sir Edward Steadling (Glamorgan), Herbert Price (Brecon), Richard Jones of Trewern (Radnor), Wm. Thomas of Aber (Carnarvon), John Salisbury (Flint), Simon Thelwall of Plas-y-Ward (Denbigh), Walter Lloyd (Cardiganshire), John Vaughan of Trawscoed (Cardigan), W. Morgan (Brecknockshire), and John Griffith of Cefnamlwch (Beaumaris), who died on the eve of the war.

Sir John Price of Newtown (Montgomeryshire), Hugh Owen of Orielton (Pembroke), and Sir Thomas Middleton (Denbigh) gave

in thought with responsible practice in affairs of State,"¹ and others formed "a company of adventurers" in 1610 to colonise Newfoundland, our premier colony, one of their most enthusiastic supporters was William Vaughan of Torcoed in the county of Carmarthen, poet, scholar, and pioneer. He bestowed the names of the counties of South Wales² on the several districts which he had acquired, and on the whole colony, situate on the south coast at the head of Trepassey Bay, he conferred the resounding title of Cambriol. When Oliver Cromwell, who was never averse to be reminded of his Welsh origin, annexed Jamaica and made it the first British Crown Colony, the success of the venture was materially assisted by the devoted loyalty of Welshmen in the island, the most redoubtable of whom was Sir Henry Morgan "the Buccaneer."³ Representatives from Wales—one or two of them in high positions—shared in the deliberations of their English colleagues during the uncertainties and turmoils attending the Great Revolution of 1688. It was the votes of the Welsh members that turned the scale in the division lobby in favour of

fitful support to the Parliamentarians. Henry Herbert, in addition to Thomas Wogan and John Jones, was consistently against the king. Sir Nicholas Kemeys, who had represented Monmouth in the Parliament of 1628, died in defending Chepstow Castle against Cromwell in the Second Civil War (see Owen Edwards's *Wales*, c. xxiii.). Algernon Sidney became Member for Cardiff in 1646; but he was never returned to Parliament after the Restoration and was not, as Sir Owen Edwards seems to suppose (*Wales*, p. 383), a Welsh member when he was tried by Jeffreys in 1682.

¹ Morley's *Politics and History*, p. 49.

² Except Radnorshire.

³ For the origin and career of Henry Morgan, see the writer's article in the *Transactions of the Cymmrodorion Society* (1903-4).

the accession of the House of Brunswick to the British throne. Nearly four centuries have elapsed since Wales was granted a constitution, and Welshmen were endowed with the full privileges of English citizenship. At no juncture during that time have Welshmen proved factious or disloyal. In peace and war, in storm and sunshine, Wales has been loyal to the partnership. "An easier people to govern, Europe holdeth not," as Sir Henry Sidney said nearly three hundred and fifty years ago. Not that their placidity was due to lack of spirit, or that the miscalled "canker of peace" had destroyed the virility of the nation. The Great War has proved that in Wales, as in the rest of the kingdom, the old martial spirit will still respond to freedom's clarion call. Wales has been law-abiding, because she has learned to respect the law; she has been loyal, because she has been justly and equally treated. With rare vision the English poet predicted—and his prediction has been abundantly verified—five years before the war, that Wales would not fail in the testing time.¹

On Europe, East and West, the dim clouds brood,
Disperse and gather again : and none can tell
What birth they hold within them. But we know
That should they break in tempest on our shores,
You, that with differing blood, with differing spirit,
Yet link your fate with ours, with ours your fate,
Will stand beside us in the hurricane,
Steadfast, whatever peril may befall.

¹ William Watson, *Wales : a Greeting*, 1909.

CHAPTER III

COUNCIL OF THE MARCHES: 1542-1689

AFTER 1542 the Council of the Marches entered upon a new phase in its history. Hitherto it had maintained a precarious existence as a prerogative court, whose life and powers were entirely dependent on the will or caprice of the sovereign. For years in succession it had remained in a state of suspended animation, the mere simulacrum of a court or a council. Then again, as under Bishop Smyth, it had performed a useful if somewhat ornamental service in attaching Wales to the Crown. Under the strenuous guidance of Rowland Lee it had wielded a real power in the State, and had helped to introduce law and order into the Marches. But a change of ministers or the death of the king might have at any moment altered its whole position. After 1542, however, its position was assured. For the first time it received statutory recognition. Section 4 of the 1542 Act gave to the President and Council "power and authority to hear and determine by their wisdoms and discretions such causes and matters as be or hereafter shall be assigned to them by the King's Majesty, as heretofore hath been accustomed and used." This provision was merely declaratory of the position which it had hitherto occupied. Parliament empowered it to carry out the orders of the king, a sanction which the Council of the North, which had lately been set up to

deal with the aftermath of the Pilgrimage of Grace, never obtained. But the Council of the Marches was to be henceforward something more than a prerogative court. It was given a general concurrent jurisdiction—common law and equitable—with the Court of Great Sessions ; and it was given an appellate jurisdiction in personal actions. The appeal in real and mixed actions was to the Court of King's at Westminster.¹

No local habitation was fixed for it. Bishop Rowland was an itinerant justiciar. He fixed his court at will, amidst the thieves of Presteign or the outlaws of Llangollen, or in the stately halls of Shrewsbury or Ludlow. Like an Eastern Cadi he dispensed justice sometimes in the open air. Sometimes he acted by himself, at other times he was glad of the assistance of his colleagues, Mr. Justice Englefield and Mr. Justice Porte. When Sir Richard Herbert of Montgomery died in 1539, he exclaimed to Cromwell that he would sooner have lost his arm. The Statute of 1542 did not expressly tie the Council of the Marches to one definite locality. During the next century we find that the Council met occasionally at Hereford, at Worcester, at Gloucester, at Tewkesbury, at Hartlebury, and at Oswestry. The only place in Wales proper where it is ever recorded to have sat was Wrexham. More often it met at Shrewsbury, which in those days was more than half Welsh, the old capital of Powys before the invaders drove the Prince of Mid-Wales from Pengwern to Mathrafal in Montgomery, and in those days still the chief town and mart in the Marches of Wales. Still oftener it met at Bewdley, the "comely" town set on a hill overlooking

¹ After the abolition of the Council in 1689, the appellate jurisdiction was transferred to the House of Lords.

the Severn, which stirred Leland to admiration. It is, he said, "sette on the syde of a hill, soe comely a man cannot wish to see a towne better. . . . At the rising of the sun from the East the whole towne glittereth, being all of new building, as it were of gould."¹ The antiquary probably visited Bewdley about 1537, when the little township which had sprung up around Tickenhill Manor was indeed new. The Manor House—"a fayre manour place by the West of the towne, standinge in a goodly parke well wooded, on the very knappe of the hill that the towne standeth on"—had been first built by Richard, Duke of York and Earl of March, a hundred years or so before. It is only a few miles to the east of his strongholds, Ludlow Castle and Wigmore. When Prince Arthur was sent to hold his court in the Marches, the old manor house was transformed into a princely palace. Here he was married by proxy to Catherine of Arragon in the presence of Bishop Smyth; thither he brought his young bride, and resided for the short remnant of his life. After his death in 1502, the palace fell into disrepair, but was put in order for the reception of the Lady Mary, when her father sent her in 1525 to hold her court in the Marches. Half a century after, the "house of Tickenhill" was said to be "of often resort of the President and Council."² But its glory departed with the sixteenth century. The Stuart king let it to Sir Ralph Clare, who grudged the expense of keeping it in repair, and still more the inconvenience of offering occasional hospitality to the President and the Council.

¹ *Itin.* iv. 183 b.

² The great Shrewsbury case, of which the most complete record is extant, was tried at Bewdley (see Skeel, pp. 229-234).

One of the complaints made against the Council was that suitors never knew for certain where the Sessions would take place.¹ The presence of the Council brought considerable profit to a town, and there was naturally a keen competition for it. It was alleged that officers of the Court were bribed to effect such a change, and that suitors from the remote parts of Wales were compelled to inquire on their way where the Council would meet.² But, as time went on, Ludlow became more and more associated with the Council, and among Welsh people it came to be known as "the Court of Ludlow."

No fitter place could be chosen for the location of a court for Wales and the four border counties of Shropshire, Hereford, Worcester, and Gloucester. It is the natural centre of the March counties, and it is within easy distance of Mid-Wales. Churchyard describes "the towne of noble fame" in his pedestrian verse :

The towne doth stand most part upon an hill
 Built well and fayre, with streets both large and wide ;
 The houses such, where strangers lodge at will,
 As long as there the Councell lists abide,
 Both fine and cleare the streetes are all throughout,
 With condits cleere and wholesome water springs :
 And who that lists to walke the towne about,
 Shall find therein some rare and pleasant things :
 But chiefly there the ayre so sweet you have,
 As in no place ye can no better crave.³

The castle, fair and stately even to-day in its ruins, commands the township. It was originally built by Roger of Montgomery ; it was forfeited to the Crown by the attainder of Robert of Belleme. It was one link

¹ Lansdowne MSS. 76, pp. 141 b-9.

² *Ibid.* 60, pp. 103-12, arts. 9-10.

³ Churchyard's *Worthiness of Wales*, first published in 1587.

in the chain of sixteen castles that the Normans built in the Marches both to stop the incursions of the Welsh and to act as citadels whence they could harry their enemy over the borders. One of its towers is still called Mortimer's Tower, in remembrance of the imprisonment in it of Hugh Mortimer by his enemy Joce de Dinan, the castellan of Ludlow. In its hall the Sieur de Joinville, whose brother had married Maud, the heiress of the de Lacy who owned the castle, feasted with all the magnates of the March before he went with St. Louis of France on the Seventh Crusade in 1248. Here Gilbert de Clare, Earl of Gloucester and Lord of Glamorgan, came to meet Prince Edward, who had escaped from his imprisonment at Hereford, and made the pact which enabled the prince to renew the war with the Barons and which led to the defeat and death of Simon de Montfort at the battle of Evesham. Here Roger Mortimer, Earl of March, who had married Maud's great-granddaughter, brought young King Edward III., and sought to efface the foul wrong he had done his parents by entertaining him with jousts and tournaments and all the diversions familiar to the age of chivalry. Here his descendant, another Roger Mortimer, brought his bride, the Lady Philippa, daughter of Lionel, Duke of Clarence, and united the blood of the great Llewelyn, the representative of the oldest reigning house in Europe, with that of the proud and upstart Plantagenets. Here Edmund Mortimer ¹ mustered his forces in order to meet the fierce onrush of Glyndwr on Melenydd, and it was

¹ Miss Skeel (p. 182) makes one of her rare slips in confusing Edmund Mortimer, Glyndwr's son-in-law, who was killed at the siege of Harlech in 1409, with his nephew Edmund, who died of the plague in Ireland in 1525, æt. 34, leaving his cousin, the Duke of York, as his heir.

from Ludlow that he sallied forth to the fatal field of Pilleth. Here Richard, Duke of York, heir to the vast Mortimer lordships through his mother, the niece of the ill-fated Edmund, gathered for the first time his forces in order to commence the bloody welter of the Wars of the Roses. Here came young Prince Edward, the son of Edward IV., to hold the only court he was destined to hold. Here died Prince Arthur. Here the Princess Mary, in her youthful prime, spent the happiest years of her gloomy and care-worn life. Here Rowland Lee stormed and blustered, hawked and hunted and feasted and indulged his love of building. But if the old town and castle were charged with fierce memories of the wars and tragedies of the past, they were destined to enjoy still nobler associations in the future. Sir Henry Sidney, scholar, statesman, and warrior, one of the greatest Englishmen even in the "spacious days of great Elizabeth," was to reside here for the best part of twenty-seven years. After his strenuous struggles with the O'Neils, the Butlers, and the Rory O'Mores of Ireland, he gratefully returned to the government of the gentle people of Wales; to the superintendence of the education of his "little Philip" in Shrewsbury school; to the affectionate care of his wife, the Lady Mary Dudley, the Earl of Leicester's sister, who sacrificed her young beauty by nursing Queen Elizabeth through an attack of smallpox and catching the infection herself; and to adding to the castle buildings which would make it fit to be the residence of one who ruled over a third of the realm of England.¹ When he came to die

¹ Over the entrance to the inner court of the castle there still remains an inscription recording that it was built by Sidney, with the motto "*hominibus ingratis loquimini lapides.*"

in 1586, he directed that while his body should be laid to rest in the Parish Church of Penshurst, his heart should be interred at Ludlow "for the entire love he bare that place." Within the castle grew up the two most wonderful children of that wonderful age. Here lived in closest affection Philip Sidney, the godson and namesake of the King of Spain, fighting against whom he met with a hero's death at Zutphen, "a very parfit gentil knight," the mirror of chivalry, "sublimely mild, a spirit without spot"; and his sister Mary Sidney, "fair and wise and good," who as Countess of Pembroke became the theme of every poet in England, and whose death inspired Ben Jonson to write his immortal epitaph :

Underneath this sable hearse
Lies the subject of all verse.
Sidney's sister, Pembroke's mother,
Death ! ere thou hast slain another,
Learn'd and fair and good as she,
Time shall throw a dart at thee.

A frequent visitor was Thomas Churchyard, who commenced to rhyme with Lord Surrey in the reign of Henry VIII. and continued to write his doggerel verses with unabated vigour in the early days of James the First. One of the strangest and most incongruous figures who ever lived at Ludlow Castle must have been Richard Baxter, who afterwards became famous as a dissenting divine and the most eloquent of English preachers. The Chaplain of the Council was allowed to eke out his stipend of £40 a year by taking in one pupil. Young Baxter, then a youth with designs on the ministry of the Church of England, came in 1632 to sit at the feet of the Rev. Richard Wickstead, Chaplain to the

Council.¹ He remained at Ludlow for one year, being left very much to himself by his reverend preceptor, but having the free run of the excellent library. In his memoirs, written over fifty years after, he recalled the temptations of his youth. "About 17 years of age," he said, in his *Reliquiae Baxterianae*,² "being at Ludlow Castle, where many idle gentlemen had little else to do, I had a mind to learn to play at tables, the best gamester in the house undertook to teach me." There were many such "idle gentlemen" about the place, for "the house was great, there being four judges, the King's attorney, the clerk of the fines, with all their servants and all the lord president's servants and many more; and the town was full of temptations through the multitude of persons (counsellors, attorneys, officers and clerks) and much given to tippling and excess." Here on Michaelmas Day, 1634, came a slender, comely young poet, with soft blue eyes—whose brightness did not presage that the all too beautiful youth would spend his old age "in the land of darkness"—his shapely head crowned with a mass of auburn hair, not yet out of his twenty-fifth year—John Milton—to witness the first production on the stage of the "Mask of Comus," "the finest production of the kind which exists in any language."³ The Prologue must have been composed in the castle itself, in which he describes how the great hall was thronged with guests who had come to see how

A noble Peer of mickle trust and power
Has in his charge with tempered awe to guide
An old and haughty nation, proud in arms—

¹ Sir Owen Edwards is in error (*Wales*, p. 328) when he describes Baxter as Chaplain to the Council.

² P. 241.

³ Macaulay's *Essay on Milton*.

the finest and most exalted compliment ever paid to the people of Wales. Samuel Butler, the satirist, spent one year of his life in the castle as secretary and steward to Lord Carbery, the first Restoration President. It is even said that he wrote the first part of *Hudibras* there, though he himself asserted that it was composed in the time of the Commonwealth.¹ Here, too, in 1684 came the Duke of Beaufort, the most magnificent nobleman of his age, to finish his princely "Progress," and to give the last gorgeous feast in the historic banqueting hall a few months before the Council was finally abolished, and the scene of so much pomp and splendour, of so much grace and poetry, of wisdom and wit, was left derelict for ever, and "Ichabod" was written over the portals.

Drain ac ysgall, mall a'u medd,
Mieri lle bu mawredd,
Y llwybrau gynt lle bu'r gan
Yn lleoedd y ddylluan.

The Presidency of the Council of Wales and the Marches became the most dignified and ornamental office in the gift of the Crown. This is the way in which Sir Henry Sidney, who had three times filled the post of Lord Deputy in Ireland, regarded it at the close of his twenty-seven years of office: "Great that it is that in some sort I govern the third part of this realm under her most gracious majesty; high it is for by that I have precedence of great personages and by far my betters; happy it is for the goodness of the people whom I govern; and most happy it is for the commodity I have, by the authority of that place, to do good every

¹ Early in 1662 *Hudibras* appeared anonymously, entitled "Hudibras: the first part written in the time of the late Wars."

day." The Lord-Lieutenancy of Ireland was a more difficult and thankless post ; Ireland, then as since, was the grave of English reputations. The President of Wales kept almost regal state, and " for the goodness of the people whom he governed " it was an office that required no great expenditure of energy or display of supreme administrative gifts. After the death of Bishop Rowland Lee in 1543, the old tradition was followed, and Sampson, his successor in the see of Lichfield and Coventry, was appointed also to the office of President of the Council. The Acts of the Privy Council, the storehouse of our knowledge of the affairs of the Council, contain few references to his tenure of office. Towards the close of his administration, however, there are ominous entries as to disputes about tithes in 1546.¹ In the following year a complaint is lodged against him that he was " partially affected " in a certain case—probably affecting the rights of the Church—which was revoked to the Privy Council. The following year, after the accession of Edward VI., and the Council had decided on pursuing a more definite Protestant policy, the bishop was removed from the presidency, and he was succeeded by Robert Dudley, the newly-created Earl of Warwick, who was the first layman to fill the post. His restless ambition, however, was not content with an office which brought him little accession of political power. He became more and more involved in the intrigues of high politics, and in 1550 he gave way to Sir William Herbert, afterwards first Earl of Pembroke. In the following year, the Duke of Somerset fell, and he was succeeded as the virtual governor of England by Warwick, who was now created

¹ *A.P.C.* 531-547.

Duke of Northumberland. In 1553 Edward VI. died, and Dudley fell on the scaffold. Lord Pembroke, who had been Northumberland's right-hand man, and was privy to the conspiracy to place Lady Jane Grey on the throne, judiciously left the sinking ship in time, and became a prime favourite with Queen Mary. He was described by foreign observers as the most powerful subject in England, and he had little time to devote to the administrative details of a provincial council. In 1553, therefore, he resigned the presidency, and Mary reverted to the old tradition by appointing Heath, the Bishop of Worcester, as his successor. Two years later, on the death of Heath, Lord Pembroke was for the second time appointed President. His multifarious duties, however, disabled him from attending the Council in person. During his second two years of office he does not seem to have been in residence at Ludlow. Abuses crept in ; unauthorised persons presumed to act as attorneys of the court ; and when complaint was made to the queen, Pembroke in August, 1558, offered to resign. His offer was promptly accepted, and in the following October Gilbert Bourne, the Bishop of Bath and Wells, was appointed in his stead. But the life of the sorrow-laden queen was drawing to a close. On November 17th, 1558, Mary breathed her last, followed a few hours later by Cardinal Pole. The reign of the Pope in England was over, and the presidency of the Popish Bishop of Bath and Wells expired with it. Bishop Bourne was the last of the long line of ecclesiastical Presidents of Wales.

He was succeeded, in February, 1559, by Lord Williams of Thame, a near kinsman of Richard Williams, alias Cromwell, under whose aegis he had first entered public

life. Though he was treasurer of the Court of Augmentations, which was anathema to all good Catholics, he won Mary's favour by proclaiming her queen before the failure of Northumberland's plot was assured. As Sheriff of Oxfordshire he had brought Cranmer, Latimer, and Ridley in custody to the place of their martyrdom ; he had even, in that capacity, attended their execution. But when the Princess Elizabeth was placed in his custody at Woodstock, he treated her with such exceptional favour that he was removed from his post. The Protestant queen, when she came to the throne, overlooked his official actions as sheriff, and only remembered his personal courtesy to the princess in distress. Though ill and hardly able to move, he was appointed President of the Council. He reached Ludlow in the summer, but in October he breathed his last in the castle.

His successor was the most illustrious of all those who had occupied the office of President. Sir Henry Sidney continued to be President, in spite of the ebb and flow of Court favour, till his death in 1586. It would have been well for the fortunes of the Council and for the welfare of the Principality if the gracious and benign influence of the President had been at the service of the Council without interruption for twenty-seven years. But Sidney was too valuable a servant of the State to be left in the backwaters of Ludlow. Three times he filled the office of Lord Deputy of Ireland, without however vacating the Presidency of Wales, viz. 1565-1567, 1568-1571, and 1575-1579. In the intervals he was not in constant residence at Ludlow. He had many enemies at Court, and Elizabeth, with true Tudor ingratitude, too often lent her ear to his detractors. Walsingham, whose daughter was afterwards married

to Sir Philip Sidney, once wrote to him a word of warning. "Your lordship had neade to walk warily," he said, "for your doings are narrowly observed, and her Majestie is apt to geve eare to any that shall yll you." His greatest offence seems to have been his incurable tolerance of "recusancy." At a time when Catholics were hanged in England for Popery, and Puritans for sedition, the record of the Council of Wales is commendably clear of reproach in this direction, except during the two years (1577-1579) when Whitgift, the new Bishop of Worcester, acted as Vice-President during Sidney's absence in Ireland. There can be no doubt, also, that the President's absence gave occasion for a crop of abuses to grow. The "instructions" sent to the Council by the Privy Council in 1574, 1576, 1577, and 1586 show that excessive fees were levied, unnecessary officials were appointed, an inordinate number of attorneys' clerks attended, suitors were delayed owing to the absence of counsellors, the place of meeting was too uncertain, and there was a constant tendency to encroach overmuch on the jurisdiction of the Common Law Courts. Sir Henry Sidney strove hard to weed out these and other abuses, and his efforts met with a large measure of success. George Owen in his "Dialogue," a few years after the close of Sidney's tenure of office, described the Council as "the very place of refuge for the poor oppressed of this country of Wales to fly unto. And for this reason it is as greatly frequented with sutes as any Court at Westminster whatsoever, the more that it is the best cheape court in England for ffees and there is great speed made in triall of all causes." The presidency of Sir Henry Sidney was the golden age of the Court of the Council of the Marches.

Sidney's successor and son-in-law, the second Lord Pembroke (1586-1602), was in indifferent health, and preferred the scholarly leisure of life at Wilton Abbey to the dull routine, varied by the ceremonial pomp, of official work at Ludlow. Under him the Council began to lose repute, and he was often engaged in somewhat acrimonious controversy with the critics of his administration.

Lord Zouche of Harringworth, who held office from 1602-1607, was a man of ancient lineage and small possessions. He had been a ward of Sir William Cecil and a pupil of Whitgift. In 1586 he had acted as one of the judges of Mary Queen of Scots. When in 1598 he was sent on an embassy to James VI. of Scotland, he exceeded the powers entrusted to him, and acted so superciliously that he gave umbrage to the king and was recalled. It is little wonder that complaints were made that he brought disgrace upon the office of President. What particular fault he committed is unknown, but Chamberlain gives a hint in a letter which is preserved in the *State Papers*. "Lord Zouche," he said, "plays *rex* in Wales with both Council and justices and with the poor Welshmen."¹ He was removed from his office in 1607.² He survived till 1625, and was buried

¹ *S.P.D.*, Elz., vol. cclxxxv. (Col. 1601-3, p. 249): "On one occasion he threw down the cushion, laid according to usage beside his own for the Chief Justice of Chester, with the words that 'one was enough for that place.'" Harl. MSS. 5353 (Manningham's Diary, Camden Society, p. 58). It was during his term of office that the controversy as to the Council's jurisdiction over the four border counties arose. It lasted many years, it engaged the attention of Coke on the one side and Bacon on the other, King James took a keen personal interest in it as he believed the royal prerogative was involved, and it laid the foundation for the hostility of the popular party to the Council, which ultimately ended in its destruction.

² It is stated in the *Dict. of Nat. Biography* that Lord Zouche held office till 1615, but this is incorrect.

in the family vault at Hackney. The vault communicated with his wine cellar, and this gave occasion to "rare old Ben's" famous distich:

Wherever I die, oh here may I lie,
 Along my good Lord Zouche,
 That when I am dry, to the tap I may hie,
 And so back again to my couch.

Lord Eure's administration lasted from 1607 to 1616, during which the miserable controversy about the Council's jurisdiction over the four border English counties was bitterly pursued. He was followed for a short time by Lord Gerard (1616-7), and afterwards by the Earl of Northampton (1617-1631). Lord Bridgewater (1631-1641), who made his formal entry into Ludlow in September, 1634, endeavoured by lavish entertainments and splendid pomp and ceremony to revive the ancient prestige of the Council. The membership of the Council was increased to 84, including 24 peers, 11 bishops, and several justices. It was too late. When the Long Parliament met, it appointed on December 23rd, 1640, a special committee, under the chairmanship of Hyde (afterwards Lord Clarendon), to consider the jurisdiction of the Council of the Marches. All the Welsh members and all the lawyers in the House were upon it. On July 5th, 1641, an Act was passed abolishing the Star Chamber, and the like jurisdiction vested in the Council of the Marches. Though this left the civil jurisdiction of the Council untouched, it remained in abeyance until the Restoration.

The Council was revived as far as its civil jurisdiction was concerned at the Restoration, and another Welshman, Richard Vaughan, Earl of Carbery, who had given refuge to Jeremy Taylor at Golden Grove, during the

Commonwealth, was appointed President (1661-1672). Carbery seems to have been a grasping and avaricious man. He was charged with malversation. Ultimately he was removed from his office for maltreating his servants and tenants at Dryslwyn, near Golden Grove, "some of whom had their eares cut of and one his tongue out and all dispossessed."¹

He was succeeded by the Marquis of Worcester, afterwards first Duke of Beaufort. His ancestor had married the daughter and heiress of the second Earl of Pembroke of the first creation (afterwards Earl of Huntingdon), and his son had succeeded to the vast possessions of the Herberts in South Wales and Monmouthshire. He was the wealthiest subject in the realm, and he lived in almost regal pomp and ostentation. He made a progress through Wales, and the record of it, written by his secretary, Thomas Dingley, is a valuable addition to our knowledge of the state of the Principality at the end of the seventeenth century. The great banquet which he gave in the hall of Ludlow Castle has already been mentioned. After the Revolution, the Earl of Macclesfield was appointed President in 1689, but the Act abolishing the Council was passed early in that year, and the last President does not seem to have had time, before its extinction, to attend the Court of the Marches at Ludlow.

The Council of the Marches had two separate and distinct functions to perform. On the one side it was a law court, set up by section 113 of the Act of 1542, whose practice and procedure will be considered more in detail in the next chapter. On the other hand it was an administrative council, which had received statutory

¹ Halton Correspondence, i. 76.

recognition by section 4 of the 1542 Act, and which was bound to carry out any royal command, conveyed to it through the Privy Council or Star Chamber. In spite of the fact that Sir Henry Sidney turned Mortimer's Tower into a muniment room and took care, as in Dublin so in Ludlow, to ensure the safe custody of archives, most of the records of the Council have been irretrievably lost.¹ "The most complete extant record of a suit before the Council appears to be that respecting the town tolls of Shrewsbury in 1598-9."² The only information we have as to the Council's administrative work is derived from the Acts of the Privy Council, the Register the MS. of which is in the Bodleian Library, and certain correspondence preserved in the Bridgewater papers. From these it is clear that the Council was subordinate to the Privy Council. In smaller matters it acted on its own authority, though even in these cases it was liable to be supervised and overruled by the more august body. The Secretary of State was given the special duty of supervising the Welsh Council.³ As has been mentioned, it was customary for the Privy Council periodically to issue "instructions" to the inferior body. Cases were remitted to it for enquiry. Sometimes it would be allowed to deal summarily with

¹ Flenley's "Register" (publ. Cymmrodorion Record Series, 1915), a reprint of Bodley MS. No. 904, is a record of the proceedings of the Council between the years 1569 and 1591, with a few entries of earlier and later date. For the "entry books of cases heard before the Council," which are purely legal records, see Skeel, pp. viii. 151 *seq.* Flenley is of opinion that one volume of the Dovaston MSS. seems to be a successor of the "Register" edited by him.

² Skeel, pp. 228-234, where a full and interesting account of the case is given, taken from Shrewsbury MSS. No. 2621.

³ *S.P.D.*, Eliz., cclxxiv. 118.

the offenders ; at other times it was ordered to send up the offenders, after a preliminary investigation, to the Privy Council for trial.¹ At the same time, the Privy Council was careful to safeguard in every way the dignity of the Council of the Marches. Occasionally it might criticise and even censure its conduct ; but it would allow no one else to show it any disrespect. It was invested with similar powers to the Privy Council. It received its instructions direct from the sovereign ; it was responsible to no one else for its administrative acts.

The "instructions" issued in 1574,² on the eve of Sir Henry Sidney's departure for Ireland, are of importance, as they served as a model for later issues. It is a source of constant complaint on the part of the Privy Council that the instructions were not properly observed. The Council was to hear and determine all manner of "extortions, maintenance, imbraceries, oppressions, conspiracies, escapes, corruptions, falsehoods, and all other evil doings, defaults and misdemeanours of all sheriffs, justices of the peace, mayors, bailiffs, stewards, lieutenants, escheators, coroners, gaolers, clerks, and other officers and ministers of justice" within the limits of their commission, and, if necessary, punish them with fine or imprisonment. In a word, the Council was to supervise the actions of the officials in Wales and the Marches, and the work of administration generally. It could issue proclamations at any time it thought fit "for the better order and quietness of her Majesty's subjects and the repressing of malefactors and misdoers." It could compound for all forfeitures arising from breach

¹ *A.P.C.* x. 432, xi. 67.

² Lansdowne MSS. 155, 222 b-49b.

of penal statutes and assess fines for any offence of which persons were convicted before it. It had the duty cast upon it of examining into charges of perjury committed by jurors committed within its jurisdiction. It could "by all their pollicies, ways and means . . . put its good and effectual endeavours to repress all manner of murders, felons, burglaries, rapes, riots, routes, unlawful assemblies, unlawful retainers, regrators, fore-stallers, extortioners, conspiracies, maintenances, perjuries of what kind soever they be." In one horrid particular it was invested with a power from which English Common Law Courts have always been gloriously free. Persons accused or suspected of treason or felony might, at the Council's discretion, be put to the torture. Another Star Chamber¹ characteristic was the extensive power to deal with "seditious tales." If the tales extended to treason, the death penalty could be enforced, if of less moment, yet of harmful effect, the offenders were to be punished "by the pillory, cutting of the ears, whipping and otherwise by their discretions." It was specially instructed to safeguard the commons against the encroachments of the lords of the manors and others, "as the people be not oppressed or lack habitation, but that they may live after their sortes and qualities."

The Lord President was nearly always the Lord-Lieutenant of the twelve counties of Wales, as well as of the four border counties, and sometimes of Warwickshire as well.² The Lord-Lieutenant was the peculiar

¹ "They resemble much in authority the high and hon^{ble}. Court of Star Chamber at Westm." (Geo. Owen's "Dialogue" in Owen's *Pembroke*, vol. ii. 22-3.

² Miss Skeel (p. 252) says that 'the number of counties varied considerably—e.g. in 1613 Lord Eure was Lord-Lieutenant of

creation of Tudor administration, who was specially entrusted with providing for the defence of the counties, for the levying of troops, and for the nomination of and supervision over the Justices of the Peace. As early as 1552 Lord Pembroke as President of the Council was appointed Commissioner for the Lord-Lieutenantship of Wales. There are innumerable instances where the President is directed by the Privy Council to levy troops for Ireland, to make provision for the defence of the realm against the invasion of the Spanish Armada,¹ to enforce the cultivation of the use of the long-bow, to supply grain, to settle industrial disputes, to enforce statutes dealing with the cloth manufacture, to fortify Milford Haven against Moorish or Turkish pirates, and to collect ship-money.² The Privy Council delegated all such matters of administration and government to the President, who was in closer touch with the remote districts of Wales and the Marches. To the modern student one of the strangest incidents that comes to light in the relations of the Council with the superior authority in London is the prevalence of piracy on the coasts of Wales. It was a part of Elizabeth's policy to

nine Welsh counties, of Worcestershire, Shropshire, and Herefordshire, while the Earl of Worcester was Lord-Lieutenant of Monmouthshire and Glamorganshire. The Earl of Northampton was usually Lord-Lieutenant of Wales (eleven counties, Glamorganshire going as before with Monmouthshire) and of the four border counties, Warwickshire being sometimes added as in 1624. In 1629, however, he was Lord-Lieutenant of eighteen counties. In 1640 the Earl of Bridgwater was Lord-Lieutenant of the twelve Welsh counties and of the four border counties."

¹ *A.P.C.* xv. 255, xvii. 328.

² Skeel, p. 156. An admirable summary of the administrative duties of the Council, based on the records found in the "Register," is given by Flenley, Introduction, pp. 5-46.

encourage privateering both against Spain and against France. She knew that she would have to depend on British seamen to guard her shores from foreign aggression. By turning a blind eye to the sea-adventurers, she thought she could, at no cost to the Treasury, and with some profit to herself and her subjects, maintain a strong force at sea. But such a policy had its disadvantages. If the Government connived at the doubtful actions of the Drakes and Horseys, it was inevitable that the people would not discriminate too nicely between the freebooters of the sea. One of the first instructions that were issued to Bishop Sampson in 1546 was that he must do his utmost to repress piracy.¹ In 1565 a "pyrat" was directed to be sent up to London in safe custody, and a Scotch pirate in 1566 was ordered to be delivered into the hands of the officers of the Admiralty.² Froude remarks that in the years 1576-9 there was a recrudescence of the evil of piracy in home waters, and the records of the Council show that the Bristol Channel was not immune from the pest. In 1576 it is complained that certain merchants of Haverfordwest were taken and robbed by one Phipson, an English pirate, and that the cargo was sold in various towns on the Welsh coast. But Haverfordwest, though it complained when its own merchants were despoiled, had no rooted hostility to piracy as such. In 1577 the Privy Council apprise the President of Wales of the fact that one John

¹ *A.P.C.* vol. i. 415.

² Clark's *Cartae de Gamorgan*, ii. No. 471. "Griffith, a Welsh pirate, is taken at Cork, and his lands, worth £500 a year, some say, are given to Lord Grey (*Cul. S.P. Dom.*, 28th Feb., 1603)." Query, was this Piers Griffith, son of Sir Rees Griffith of Penrhyn said by Pennant to have fought against the Armada? (*Tour*, ii. 285.)

Callice, "a notable pirate," was "lodged and housed" in Haverfordwest as an honoured guest. He put out to sea, seized a French vessel laden with wine, landed at Milford Haven, and disposed of the loot with impunity. In the same year a richly-laden Bristol vessel was wrecked. Her cargo was taken by the inhabitants of the sea-coast of Somerset and South Wales. The Acts of the Privy Council refer to numberless instances of persons from South Wales being examined on a charge of dealing with pirates. In 1577 Sir John Perrott, Fabian Phillips (a member of the Council), and the Mayor of Cardiff were appointed Commissioners to examine into matters of piracy in that town. About the same time pirates "armed with swords and calivers" landed at Penarth, though their depredations do not seem to have been very serious, their spoil only consisting of "a wether and three copple of conies." The last record relating to piracy occurred in 1632. The deputy-lieutenants of Carnarvonshire sent in hot haste to Lord Bridgwater for instructions what to do; because "certaine pirates came into a haven of that County and threatened to land," in which case the deputy-lieutenants "not knowing what course to take, desired to be instructed therein." The Council, "much marveyling they should make so strange a demande in a matter wherein their own judgments might sufficiently inform them," gave the sensible advice that they should prevent the pirates from landing, or if they did, to arrest and imprison them.¹

It has already been remarked how honourably averse

¹ Council Register, July 20th, 1532. For directions from the Privy Council to suppress piracy from 1569 downwards, see also Flenley's "Register."

the Council of the Marches was to religious persecution. It is true that in 1578 the Council sent up a complaint to the Privy Council that offenders in religion were not adequately checked. But that was done when Sir Henry Sidney was acting as Lord Deputy in Ireland, and when Whitgift, the lately appointed Bishop of Worcester, who afterwards as Archbishop of Canterbury condemned John Penry for his share in writing and publishing the "Martin Marprelate Tracts," was acting as Vice-President. As a rule the Privy Council complain of the "slackness" of the Welsh Council in proceeding against the recusants. In 1590 Lord Pembroke complained that much sympathy was shown by the members of the Council themselves towards the recusants. Some of them, he said, are "coldlie affected in religion," and he asked that persons "of good disposicion in religion" may be added to their number.¹ It was in connection with this "slackness" that Walsingham wrote the friendly letter of warning in 1582 already referred to, in which he enjoined Sir Henry Sidney to "walk warily." It was no wonder that the Council hesitated about putting into force the Recusancy Acts, especially the stringent ones of 1585 and 1593. The whole of Wales was intensely Catholic, and the border counties were probably the most Catholic parts of England. During the two years of Whitgift's vice-presidency active steps were taken to put down the adherents of the old faith.² In one case, Whitgift and the Bishops of Bangor and St. Asaph were appointed special commissioners to inquire into the case of one John Edwards of Chirk, who had been guilty of the heinous offence of allowing Mass to be said in

¹ Lansdowne MSS. 63, f. 187; cf. 159, f. 50.

² Strype's *Whitgift*, pp. 164-180.

his house. The Privy Council specially empowered the right reverend prelates to inflict torture "whereby the very truth of such reconciliations to the Pope, lewd practices and assemblies, might be bolted out and known, which they were informed to have been very many in that country." This amiable intention, however, was frustrated by the serene courage of John Edwards and his friend Morice. Thumbscrews and the rack had no terrors for them. They remained silent under the examination of the pinchbeck Torquemadas, and were duly cast into prison. Justices of the Peace were reluctant to interfere with the priests of the popular religion, and left the nasty work to the Judges of Assize. The judges in their turn found themselves too busy to deal with recusants, and so, at Whitgift's request, the Justices of Assize were inhibited from dealing with such cases.¹ An ecclesiastical commission was set up, one of whose first acts was the examination of John Edwards of Chirk. Fabian Phillips, a member of the Council of the Marches, was appointed with a roving commission to smell out "offenders in religion."² Gerard, who evidently was not enamoured of this part of the Council's duty, caustically describes Phillips as "a yonge man, an utter barrister of small experience at the barre or benche, of noe knowen lyvinge saving a bailiwick or stuardshipe."³ But the needy barrister evidently did his work to the satisfaction of Whitgift, who said of him, "For my own part I know not anything whereupon he can be justly charged, unless it be because he is stout and upright in judgment and not appliable to satisfy other men's affections and pleasures, as peradventure

¹ *A.P.C.* ii. 51 (Editor's note).

² *A.P.C.* ii. pp. 29, 97, 190.

³ *A.P.C.* xiii. 427-8.

it is looked for. Truly, my lord, I find him one and the same man; but I see how hard it is for such to follow the rules of equity and justice without respect to please all men; and I would to God it were not altogether contrary." No sooner, however, had Sir Henry Sidney returned, than the old complaint of "slackness" was revived. In 1580 the Privy Council ordered that another ecclesiastical commission should be set up, and the President is warned that the queen is offended because nothing had been done for a whole year. Two years later complaints are made that recusancy is on the increase. Justices of the Peace, sheriffs, and jurors are alleged to be slack in apprehending and punishing recusants, and the President is urged to choose as justices men "who most favoured religion."¹ In the "instructions" sent to Lord Pembroke, on his entering upon his office in 1586,² Art. 43 mentions "all the actes in sorte ordeyned for unyformitie of common prayer, divine service, and for causing all persons to resorte to churches to divine service so as at the hearing and determyning thereof some of the Bishoppes of that Counsaill for the better performance and due execucion of the said lawes and Statutes as apperteigneth." In 1592, again, the Privy Council had to press the President to hold an inquiry for Jesuits, seminary priests, and other "such lewde and suspected persons as do lurke in those remote places."³ The common people in Carmarthenshire⁴ and Pembrokeshire

¹ Lansdowne MSS. 51, ff. 103-14.

² Lansdowne MSS. 51, ff. 103-14.

³ *A.P.C.* 22, pp. 543-5.

⁴ How hard Catholicism died in Carmarthenshire may be gathered from the fact that as late as 1700 a priest was prosecuted



were said still to resort by night to places where in times gone by there had been images or offerings. To check this practice it was ordered that "superstitious and idolatrous" monuments were to be pulled down and defaced in both counties. A few years earlier (1588) a priest who was being sent to London by the Council for trial from Monmouth gaol was forcibly rescued.¹ In the following year, in the "Articles to be considered for the government of Wales," the Privy Council are still perturbed by the prevalence of Catholicism in Wales. One of the Articles related that "recusantes do swarme, no man but their owne companies doe know where they were married, by whome or in what place, where their children were christened, (where) their children be learned and bred by scholemasters of their owne creed, nor who be their godfathers and godmothers."² As late as 1609 the Privy Council are assured that recusancy is still prevalent in the Marches and South Wales.³ In the later years of Lord Bridgwater's presidency, Puritanism became active in the Marches. Walter

at the Great Sessions at Carmarthen for saying Mass at Llandilo. In a book of precedents of pleading in the writer's possession the indictment is set forth as follows :

Carmarthen. The jurors present that Samuel Davies of Llandilo vawr Chen gent after 17th Nov., 1699, viz : in April 7 . . . at the parish of Llandilo vant (vân) now and formerly a popish priest said mass in the mansion of John Morgan of Llandilo vawr and administered the sacrament to a certain Mary Lloyd and Mary Price according to the Roman use, against the statute, etc.

¹ *A.P.C.* 16, p. 95.

² Dr. Griffith Roberts, in his introduction to the *Drych Cristionogawl* (Milan, 1585), complains, however, that in many districts in Wales the people live "like animals," knowing nothing of Christianity, but only holding in memory the name of Christ.

³ *S.P.D.* Jas. I., xxviii. 122 ; lxviii. 75.

Wroth in 1639 started the first Independent cause at Llanvaches in Monmouthshire. Walter Cradock carried his fiery message from Cardiff to Wrexham, converting Vavasour Powell in Radnorshire and Morgan Llwyd o Wynedd in Denbighshire. After his hegira from Wrexham, he remained for months with the Harleys at Llanfair Waterdine in Shropshire, where the saints thronged to him for counsel and instruction. But there is no record that the Council of the Marches interfered with Puritan activity. It was as tolerant of the new as it had always been of the old faith.

By the Act of 1542¹ the Council was given a general concurrent jurisdiction with the Court of Great Sessions, and an appellate jurisdiction in personal actions. It was not the intention of the framers of the Act that the Council of the Marches should in any way compete with the common law jurisdiction of the Great Sessions. There is no doubt that the bulk of the equity work from Wales was transacted at Ludlow. As will be shown later on, the Court of Great Sessions was not specifically invested with an equitable jurisdiction. It occasionally, and in a few limited instances, acted as a Court of Chancery because it could not help itself. But it had neither the desire nor the machinery for transacting ordinary equity business. The Council of the Marches, as long as it existed, was in reality the Chancery Court of Wales. At first sight it seems inconsistent that the Council should have both an original and an appellate jurisdiction in personal actions, and inexplicable why it

¹ Ss. 4 and 113. "The authority and jurisdiction of the Counsell are not certainly known, for they are to judge and determine of such matters as the Queen shall authorise them from time to time by way of Instructions" (George Owen's "Dialogue," Owen's *Pembroke*, vol. ii. 22).

should have a concurrent original jurisdiction in personal and mixed actions, but the intention of the framers of the Act of 1542 becomes quite clear in the light of the "instructions" which were from time to time issued by the Privy Council to the March tribunal. The clearest exposition of the real meaning of this seeming anomaly is to be found in the "instructions" of 1574. The original jurisdiction, civil and criminal, vested in the Council, is only to be exercised when moved "by any poor persons, that shall manifestly appear not to be able to sue or defend after the course of the common law, or by any person like to be oppressed by maintenance, riches, strength, power, decree or affinity of the parties adversaries." But a caveat was entered against the multiplication of such suits, especially for title of lands, unless absolutely required. As far as possible, they were to be referred to the common law.

The Act of 1542 introduced the English land law and the law of primogeniture (instead of gavelkind) into Wales.¹ It was inevitable that such a revolution would cause a great disturbance in the relations between the occupier and the person who now became by operation of law the owner of the land. It is no wonder, therefore, that there should have been much litigation as to the title of land in the courts. Nor is it strange that the poor occupier should fear to submit his title to the arbitrament of a local court where it might be both judge and jury were amenable to the influence or pressure of the lord of the manor. Disputes between the copy-

¹ For the survival of Welsh land tenure in certain localities, see Owen's *Pembrokeshire*, vol. i. 61 n. and vol. iii. p. 146 n. For an account of the transition under Elizabeth from the Welsh tribal custom to the English land system, see Rhys and Jones, *The Welsh People*, p. 407 seq., written by Seebohm.

holder and the lord were, therefore, frequently tried by the Council of the Marches rather than by the Court of Great Sessions, and, as has been mentioned, special instructions were issued to the Council to put a stop to the encroachments of lords of the manor on the commons. The intention of the promoters of the Act of 1542 in vesting this jurisdiction in the Council was both reasonable and salutary. But their intention was frustrated by the natural tendency of all courts of law in those days to encroach upon the domain of other courts. As the number of poor and oppressed suitors of the Council increased, the number of counsel and attorneys and clerks in attendance increased as well. It was to the interest of these parasites to augment the number of causes, and it soon became a matter of complaint that the Council attracted to itself actions that ought more properly to be tried in the counties where they arose. In 1574 it became necessary for the Privy Council to warn the Council of the Marches that suits as to the title to lands should, as far as possible, be left to the common law.

William Gerard, who had been a member of the Council since 1560, and Vice-President since 1562, was appointed in April, 1576, to the great delight of the Lord Deputy, Sir Henry Sidney, Lord Chancellor of Ireland. He retained, however, his office of Chief Justice of Chester, which enabled him still to attend the meetings of the Council. The affairs of Wales were engaging the serious attention of the Government. David Lewis, Principal of the newly-founded Jesus College, Oxford, and Judge of the Admiralty Court, was asked to report on the state of the Principality. Probably Gerard was also asked, before departing for

Ireland, to give his views as to the position and prospects of the Council with which he had been so long connected. At all events, in 1576, he made a valuable and interesting report which he called a "Discourse" to the Council. He was not over-complimentary either to the institution itself or to its members. He is a *laudator temporis acti*, and contrasts the feebleness of the present officials with the strength and vigour of Bishop Rowland Lee and Mr. Justice Englefield. "At this day, to be plaine," he says, "the Counsell and Courte are neyther revered, feared, or their proceedings esteemed. There is not, neyther hath bene, sithens the Queen's raigne anie of the Counsell appointed to continuall attendaunce of suche profounde judgement as the place requieth or that maie be termed profounde, learned, comparable with the meaneste of those that have served as Justice sithens Englefelde. And as the knowledge hereof hath bred, the Counsellors at the barre by contemptuouse carpinge overmuch to deforce contempn and discountenance the benche, soe the clientes takinge holde of their disorders and persuaded that everie order which passeth against them is eyther throughe ignorance or wilfullness of the Counsell and soe doe departe wythe repynninge and murmuringe speeches." He goes on to say that the members of the Council are too numerous,¹ for the most part unfit, and have their private

¹ Miss Skeel (*Council of the Marches*, Appx. iii. pp. 288-9) gives a list of the officials during the second half of the sixteenth century. They were the Lord President, Vice-President, Chief Justice of Chester, Secretary, Clerk of the Council (who was also Clerk of the Signet and Register), Clerk Examiner (who left his work to be done by young "Clerks allowed"), Her Majesty's Attorney of the Marches, Her Majesty's Solicitor, Clerk Receiver of the Fines, Porter, Sergeant-at-Arms, Remembrancer, "and the holder of a new and easy post called Hankie's office, who

ends to serve rather than the good of the country. The conclusion he draws is :

" It is moste true that the bodie of the comunaltie of Wales are pore and theire estate to be lamented of everie pitifull and carefull magistrate, for he that woulde but marke the pore simple creatures (I call Gode to witnes with greeff and pitie of theire smarte I speak yt), whoe come and goe to and from that Courts in the yere, and the small causes which they travell for when theye come to hearinge, meeter for a meane under-stuarde at a Leete or lawe daie to be decised, then for a Counsell settled for government to be occupied withall, would saie to himself, you pore walshe creatures, yt is not you, but those appointed to govern you whoe be the causes of your beggarie: th' establishment is to devise for your wealthe that which your malicious and wilfull disposicions cannot procure to yourselfs."

He concludes with some pungent descriptions of the Members of the Court. The Vice-President ¹ (Sir Andrew Corbet) was "a verie sicklie man not able to take the toyle of that service." Doctor Ellis (*i.e.* the celebrated Ellis Price, LL.D., "y doctor coch") "of XII or XIII yeres countenance, a good mountaigne

took fourpence a time for writing his name on certain bills." The Counsellors at the Bar were by the Instructions of 1586 limited to eight, and the Attorneys to eighteen, attended by eighteen clerks: "but there was a tendency for these numbers to be increased in spite of prohibitions." There were also the Steward, the Marshal, the two Pursuivants, the Chaplain, the Armourer, the Keeper of the Castle, the Keeper of the Leads of the Conduit, and the Keeper of the Clock (Lans. MSS. 51, ff. 103-14; 28, ff. 124-5; 111, f. 16; Ashmolean MSS. 824, xxii.). See also Flenley's "Register," p. 21.

¹ See *A.P.C.* ix. 66. This shows that the *Discourse* was written after Gerard had ceased to be the Vice-President.

doctor and seldom called to attendaunce there.”¹ Powell of Oswaldstree (Oswestry) was a new member. He was “well seene in Welsh stories, in that service sitteth like a Zipher.” Jerome Corbett was “a yonge man, an utter barrister in Court, but soe slowe of dispatche as not meete for that Court.” Fabian Phillips’s description has already been given. He finishes up by a very sensible suggestion that one of the Justices of Assize should understand Welsh, “for nowe the Justice of Assize must use some interpreter. And therefore many tymes the evidence is tolde accordyng to the mynde of the interpreter, whereby the evidence is expounded contrarie to that which is saide by the examynate, and soe the judge gyveth a wronge charge,”—an observation which explains much of the misunderstandings that have occurred between English judges and Welsh jurors and witnesses.

He gives an interesting account of the law terms, and the number of cases tried, which affords a useful standard of comparison with the state of business in Lord Bridgewater’s time. He states that—“there are now four termes in the yere, and in every terme, two or three

¹ This somewhat disparaging estimate of Ellis Prys as a “mountain doctor” differs widely from the view taken of his position by his Welsh contemporaries. William Llŷn (Morice’s edition, pp. 11 and 48) wrote two poems in his praise, in the latter of which he describes him as

Adail tir Kymry ydwyd
A llaw gref ynhir Lloegr wyd
Pann ddeloch penn y ddwywlad
I’r cwrt lle mae euro Kad
Pob iarll hên pawb eraill is
A wyr alw Doctor Elis.

J. C. Morice is wrong in stating that “Doctor Ellis was a noted Court Physician,” p. 297. The allusion is to his membership of the Ludlow Court.

hundred matters appointed to be harde . . . and acceptinge like nomber to every of the foure termes in the yere, and like expenses in every matter, three or four thousand poundes will be gathered at the leste to be expended by yere . . . There are foure moneths in the yere expended in terme tymes and thother eighte moneths in vacac'on, one weeke with another throughowte the yere, there passeth an hundred or two hundred proces, and in everie terme there are ended in afternoone Rules one with another by Commission to frendes (*i.e.* arbitration), by wager of lawe, and by dismission upon thanns were 200 matters . . . From sixe of the clock in the morninge until sixe o'clock in the evening (allowing them a dinner tyme) before noone and after, the Counsaill sit in Cortte." ¹

Miss Skeel,² who has gone through the entry books between the years 1632 and 1642, which are preserved among the Bridgwater Papers, states that "the Hilary Term began, as a rule, in the second week of January, and ended at some time in the last week. Lent Term began in the last week in February or the first of March, and lasted a fortnight. The length of Trinity Term varied a good deal : once it began as early as June 15th, 1636, and once as late as July 17th, 1635. It was distinctly the longest and busiest term, as might be expected ; sometimes the sitting went on into August, *e.g.* in Trinity Term, 1635 (July 17th to August 8th). Michaelmas Term began in the first week of November, or sometimes in the second, and lasted for a fortnight

¹ *S.P. Dom.*, Eliz., vol. cvii. No. 21 ; cf. the account given by George Owen in his " Dialogue " (Owen's *Pembrokeshire*, vol. ii. p. 23).

² Skeel, *Council of the Marches*, p. 152.

or three weeks, sometimes longer, as in 1639 (November 6th to December 3rd). The average thus would seem to be a fortnight for the Hilary and Lent Terms, three weeks or more for the Trinity Term, and a fortnight or three weeks for the Michaelmas Term."

The returns are incomplete for most of the years, but the returns for 1638 show that the number of causes entered was 1525 and the amount of fines came to £3.971 6s. 8d., and for 1639, 1539 with £4,229 13s. 4d. fines. This would seem to show that the popularity of the Court, on the whole, had stood the test of time.¹

Gerard's *Discourse* seems to have had an immediate effect. In 1576 the Privy Council issued further "instructions." It was ordered that no suits in the nature of "replevin, debt without specialty, detinue, action upon the case, or account" should be received by the Council unless the Bill were signed by two of the Council at the least. "Also, if complaint be made of trespass or wrongful entering or disturbing of the freehold, or of the possession of any farmer for years or at will, within any of the twelve shires of Wales . . . and surmise he is not of ability to try the common law in the County where the wrong was committed and therefore of inequality prayeth to be heard of that Court, no process to be graunted upon any such Bill, except the complaint be first exhibited to the Justices of Assize

¹ Miss Skeel, however, makes a somewhat conjectural comparison between the number of cases entered in 1609 and 1633, and concludes "that the average number of suits from all Counties in 1633 to 1640 was less than half that from the four (border) Counties only in 1609-10, which shows how rapidly the Court had declined, in spite of all the efforts made to strengthen it." But the basis of comparison between the years is faulty, and Miss Skeel has overlooked Gerard's estimate in 1575, when according to him, the number of suits was excessive.

within that County, where the cause of such suit ariseth, and he, by letters and other note of allowance, recommend the hearing of the same for that cause to this Council." In the next place, no title of copyhold was to be heard except against the lord, without manifest testimony that the complaint could not have impartial trial in the lord's Court. Furthermore, no process was to be granted for the appearance of any before the Council unless the value thereof exceeded 40s. Whitgift, the energetic new Bishop of Worcester, was appointed Vice-President in the place of the sickly Sir Andrew Corbett, a post which he filled for two and a half years until the return of Sir Henry Sidney from Ireland.

Even in those early times the Council had its enemies and detractors. Gerard bore witness to the little esteem in which it was held at the conclusion of his term of service. George Owen, writing in 1593, states that the queen had been moved to abolish the Council, and that Bills had even been introduced in Parliament to that effect.¹ The chief causes of complaints were the old ones against which the Instructions of 1574, 1576, and 1586 had been levelled. The causes tried were " trifling," and the costs recovered by the winning party in a suit were so small and inadequate that a defendant, even when he had a good defence to the claim, felt that it was prudent to compromise rather than lose money by winning the action. In spite of all efforts to keep down the number of attorneys, there were twenty-four practising at the Council, instead of twelve as enjoined by the Instructions of 1574 and eighteen by the Instructions of 1586, " besides divers Attornies Peers (*i.e.* companions) which they call clerkes admitted, who in the absence of

¹ George Owen's " Dialogue," Owen's *Pembr.* vol. ii. p. 24.

the Attornies, have an Attornie's place and authoritie." George Owen indignantly contrasts this inordinate number with the two or three attorneys admitted in the Star Chamber and the six attorneys in the Court of Chancery at Westminster.¹ He also complains of the number of unnecessary processes at the Court.² In spite of these defects, which he considered might be easily remedied, he thought highly of the Council of the Marches, and did not subscribe to the view of its enemies that it should be abolished. "Better it were that those defects were reformed, than like an evill Phisition, for that some parte is grieved, to kill the whole body."³ Even as it was, Owen was of opinion that it had not only been of inestimable benefit in the pacification of Wales, but that it rendered useful service still. "Generallie," he said, "it is the very place of refuge for the poore oppressed of this country of Wales to flie unto. And for this cause it is as greatly frequented with sutes as any one Court at Westm. Whatsoever, the more that it is the best Cheape Court in England for ffees and there is great speed made in triall of all causes."⁴

But though the Council had its enemies in Wales, the first effective blow at its jurisdiction came from the border counties. From its inception, it met with hostility from the English shires. Early in the reign of Elizabeth, Bristol, the chief city in the county of Gloucester, was exempted from its jurisdiction.⁵ A few years later, in 1569, Cheshire, as a one-time Palatine County, was declared not to be subject to it. In 1574 Worcester petitioned to be placed in the same category,

¹ George Owen's "Dialogue," Owen's *Pembr.* vol. ii. p. 25.

² *Ibid.* p. 40.

³ *Ibid.* p. 25.

⁴ *Ibid.* p. 23.

⁵ In 1561, Seyer, *Memoirs of Bristol*, ii. c. 26, p. 238.

but its petition was rejected.¹ In 1604 Farley's case brought matters to an issue. Farley claimed to hold a piece of land under a lease from a deceased copyholder. The widow claimed to re-enter and avoid the lease. She obtained from the Court of the Marches a decision that she should have possession till the Court of the Manor had tried the issue.² Farley disobeyed the order and was imprisoned by the Council. He sued out *habeas corpus* from the King's Bench. The writ was disobeyed by the Council, "for that none of that nature had ever taken place." Lord Zouche, the President, brought the matter before the Privy Council. Coke, the Attorney-General, acted for the King's Bench; Sir John Croke and Sir Francis Bacon for the Council. It was ultimately decided that the King's Bench had the general right and duty of seeing that Courts like that of the Marches kept within their due limits, but that it was bound to guard against abuse of the writ of *habeas corpus*.

I refrain from entering into, in minute detail, the "tedious business of the shires," which helped to disturb English politics and to embitter the relations of King and Parliament for ten years and more.³ I shall not attempt to summarise the learned arguments of Coke, the champion of the common law, against the jurisdiction of the Council,⁴ nor the equally recondite arguments of

¹ Brit. Mus. Colt. MSS. Vitellius, c. i. ff. 208-9.

² Croke's Reports, Trin. Term. 2 Jac. (1604), vol. ii. p. 36, case 12.

³ For a full and detailed account of the controversy the reader is referred to Stebbings' *Works of Francis Bacon*, Preface to "The Arguments on the Jurisdiction of the Council of the Marches," vol. ii. pp. 569-585. See also Skeel, pp. 130-145, who supplies some further details.

⁴ Coke's *Inst.* iv. 242.

Bacon, the champion of the prerogative, against the shires. Nor will I endeavour to describe the scene at a meeting of the Privy Council on November 3rd, 1608. The judges attended, but when asked their opinion they wisely and prudently remained silent. The king was there, and young Prince Henry was with him "seated upon a stoole by, but not at, the (Council) Table." It would be impossible to do justice to the harangue of the British Solomon, with his references to Moses and Jethro, the Emperor Constantine, the Picts and Scots, and the Heptarchy. He insisted that "all lawe is but voluntas regis," and turning round to the poor young Prince, seated still on his stool, the "wisest fool in Christendom" sapiently exclaimed, "this concerneth you, sir, and I hope you will loose no thinge which is yours." It was little wonder that the Lord Chief Justice and Chief Baron "swelled soe with anger" at this truly royal outburst "that teares fell from them." I shall not follow the Parliamentary fortunes of the controversy. Suffice it to say that on one occasion the House of Commons carried through a Bill declaring the jurisdiction of the Council over the four shires to be illegal, that the Bill was dropped in the Lords, and that in the end the Commons obsequiously left the whole matter in the hands of His Majesty's Grace. The Grand Jury of Hereford presented a Bill charging the Council with being a nuisance, and in 1610 it is recorded that the processes of the Council were contemptuously set at naught in the four shires.

It would appear, therefore, that the jurisdiction of the Council in the four border counties was in abeyance for some years. In 1617, however, when Lord Compton (afterwards the Earl of Northampton) became President,

his Instructions were that no distinction was to be made between Wales and the four counties, and that the Council should have jurisdiction up to £50. So matters continued till the Long Parliament met in 1640. In December the House appointed a committee consisting of all the Welsh and all the legal members, with Edward Hyde, afterwards Earl of Clarendon, as Chairman to examine into the jurisdiction of the Council. The report was unfavourable, and in July, 1641, a Bill was passed abolishing the Star Chamber and the similar jurisdiction in the Council of the Marches. The civil jurisdiction of the Council was not interfered with, but its jurisdiction in the four border counties was declared to be illegal. For the next twenty years the work of the Council fell into abeyance. Lord Bridgewater, the President, made no attempt to keep the Council alive even for legitimate purposes, and it almost appeared as if the Council of Wales was as dead as its prototype, the Star Chamber. With the Restoration, however, the fortunes of the Council revived. A petition, signed by nearly 3,000 persons from the English counties, requested its restoration, and Herefordshire, which once declared it to be a nuisance, produced more than half the petitioners. Lord Clarendon, who was now Lord Chancellor and the king's chief minister, was not forgetful of the conclusions of his Committee of 1641. The civil jurisdiction of the Council in Wales was revived (but henceforth it had no administrative duties to perform), and though it continued to reside in Ludlow, its jurisdiction over Shropshire and the other border counties was terminated for ever.

For the last twenty-eight years of its existence, there is very little material to show the nature and extent of

the Council's activities. The President became a glorified Lord-Lieutenant of the twelve counties of Wales. The Castle of Ludlow and Tickenhill Palace at Bewdley were restored and newly furnished at great expense to the State by Lord Carbery. The Duke of Beaufort, the last effective President, made an ostentatious "Progress" through Wales, finishing up with lavish festivities at Ludlow. But the Revolution of 1688 sounded the death-knell of the Council. The tendency of the age was towards the centralisation of executive power in London, and the curtailment of all that savoured of the royal prerogative. Less than twenty years later Scotland surrendered her national Parliament, and the government of "North Britain" henceforth was located in London. The Council of Wales had never been very popular. Attempts had been made to abolish it in the early years of Elizabeth. The border counties which surrounded it had succeeded in liberating themselves from its jurisdiction. There was no national feeling in Wales which would favour its retention as an emblem and symbol of the separate entity of Wales. The Council was therefore suppressed with insult and ignominy, which with all its defects it little deserved, by 1 William and Mary, c. 27 (1689). The preamble recites that "the proceedings and decrees of that Court have by experience been found to be an intolerable burthen to the subject within the said Principality contrary to the Great Charter, the known laws of the land, and the birthright of the subject and the means to introduce an arbitrary power and government" and "all matters examinable or determinable before the said Court may have their proper address in the ordinary Courts of Justice provided and settled in

the several shires within the said Principality," and it is enacted that the Council, which had existed for over two hundred years, should be dissolved. When it is remembered that the Council since the Restoration had existed only as an ordinary court of law, which had been set up by the Statute of 1542, and had little executive authority, the sonorous denunciation of its unconstitutional position in the preamble was somewhat beside the mark. Its abolition was due, not to any shortcomings in itself, but to Whig detestation of its origin. Henceforth, sheriffs were to be nominated, not by the Lord President, whose office disappeared with the Council, but by the Court of Great Sessions. The other administrative functions of the Lord President were discharged by the Secretary of State. The administrative distinction between Wales and England was obliterated. The Parliament of George II. was only recognising the true facts when it enacted that the term "England" when used in a statute should necessarily comprise Wales. The only distinctive institution that remained to Wales was the Court of Great Sessions. But the doom of the Sessions was sealed when the Council of Wales was abolished. As will be seen, the position of the Court of Great Sessions became soon untenable, and English lawyers and statesmen never rested till the last national institution of the Principality was destroyed.

CHAPTER IV

THE KING'S COURT OF GREAT SESSIONS: 1542-1830

THE Act of 1542 set up a complete machinery for the government of Wales. As a piece of draughtsmanship it was a wonderful achievement. It consisted of one hundred and thirty sections, and was therefore one of the most comprehensive enactments passed in Tudor times. It was described more than 250 years after by a competent commentator "as containing a most complete code of regulations for the administration of justice, framed with such precision and accuracy, that no one clause in it hath ever yet occasioned a doubt or required an explanation."¹

It fixed the geographical limits of Wales, it divided Wales into her component counties, it selected its capital town for each county, and its work has survived practically without alteration to our own days. It gave, as has been shown, statutory sanction to the Council of Wales and the Marches, to which also it added some of the features of an ordinary court of law. It created, however, a new court—the King's Court of Great Sessions in Wales. By means of these two courts,

¹ Russell's *Practice of the Carmarthen Circuit* (1814), Intro. p. xxvii. citing *Observations on the Statute*, p. 514, a manuscript book of practice then in the possession of the Prothonotary of the Carmarthen Circuit.

English laws and customs were introduced for the first time into the whole of Wales, the land laws of England took the place of the old system of Welsh land tenure, primogeniture superseded gavelkind,¹ "arthel" and "cymhorthau" were extinguished, English became the official language instead of Welsh, and the vast revolution was effected seemingly without exciting the animosity of the proud and sensitive race whose whole condition of life was so suddenly transformed.

The Court of Great Sessions was clothed with wide powers. It was directed to hold all manner of pleas of the Crown "in as large and ample a manner" as the Court of King's Bench in England, and also "to hold Pleas of Assizes, and all other Pleas and Actions Real, personal and mixt, in as large and ample a manner as the King's Chief Justice of the Common Pleas in England, and other justices of the same Pleas, or any of them, may do in the Realm of England."² It was also given complete criminal jurisdiction over offences "of what natures, names, and qualities soever they be," and generally "to minister common justice to all and singular the King's subjects . . . according to the laws statutes and customs of the Realm of England, and according to the present ordinance."³

The Court of Great Sessions had an equitable jurisdiction, but when and how it acquired it has been a matter

¹ But gavelkind still survived in some localities. For notable instances see Owen's *Pembrokeshire*, vol. i. p. 61 n.; vol. iii. 146 n.

² Sec. 12.

³ Sec. 13. The addition of the words "according to the present ordinance" was rendered necessary by the fact that some of the legal proceedings (e.g. Sec. 15) in the Courts of Great Sessions were directed to be carried on after the manner and form which had before that time been used in North Wales.

of controversy. It was certainly not specifically conferred by the Act of 1542.¹ A great deal of our knowledge of the practice and procedure of the Sessions is derived from the evidence given by witnesses who were examined before the Select Committee which was originally set up in 1817 and made its final report in 1821.² One of the witnesses was Mr. Justice Burton of the Chester Circuit (1788-1817). He hazarded the conjecture that the equitable jurisdiction had attached to the Welsh Courts in the "ancient counties" long before the Statute of Henry VIII., "although it is probable that during the existence of the Court of the President and Council of the Marches, which was abolished by William III., a considerable portion of that equitable jurisdiction may have been drawn within the cognizance of that Court."³ Several circumstances tend to confirm this view of the origin of the Court's equitable jurisdiction. One is that though the Chamberlain of Chester continued as before to make his equitable writs for the County Palatine returnable before himself, yet he appears

¹ "It is said in the *Observations on the Statute* that the mode in which the Courts of Great Sessions obtained their jurisdiction is rather dark, as the Statute most particularly enumerates every officer in the Courts of Law, but does not allude to proceedings in equity" (Russell's *Practice*, Intro. xxx. n. 1).

² The Select Committee was appointed in 1817 with the Rt. Hon. George Ponsonby as Chairman. Its Report (which consisted only of evidence) was issued on July 4th, 1817, and reprinted March 10th, 1818 (v. 107). In 1820 the Committee sat again under the Chairmanship of the Hon. Frederick Campbell (afterwards second Lord Cawdor) and issued a print of the evidence the same year (ii. 45). In 1821 it issued its final report (iv. 233).

³ Cf. Geo. Owen in his "Dialogue" (Owen's *Pembrokeshire*, vol. ii. p. 42), "unto every of these three sheeres is theare erected a chauncerye and an exchequer, out of wch. chauncerye all original writs seald wth. a chauncerye seale."

always to have made his equitable writs for the County of Flint returnable before the Justice of Great Sessions. There was also a Chancery at Carnarvon since the settlement of Edward I. The Act of 1535 (Sec. 10) enacted that "Justice shall be ministered . . . in the shires of Brecknock, Radnor, Montgomery, and Denbigh (*i.e.* the four new shires) . . . after such form and fashion as Justice is used and ministered to the King's subjects within the three shires of North Wales." Dr. Nicholas gives an account, in *Annals and Antiquities of the Counties and Families of Wales* (p. 244), of the seal of Henry V., while Prince of Wales, for the lordship of Carmarthen, which he describes as the "seal of the Carmarthen Chancery." In 1672 a text-book dealing with the practice and procedure of the Courts of Great Sessions in Carnarvon, entitled *Practica Walliae*, was published. Its author was Rice Vaughan, a barrister who had practised for many years before the Courts of Great Sessions. Though the Council of the Marches was still in existence, it is said that the "Courts of Great Sessions have a Chancery within themselves and have had power to relieve in cases of equity ever since Henry VIII.'s time."¹ The Chancery practice was so well established that Vaughan published as an appendix "The certain and known Rules to be observed in the proceedings of the Chancery Court of the Great Sessions of the counties of Anglesea, Carnarvon, and Merioneth."

Dr. Henry Owen states, without mentioning his authority, that "there was at first much doubt whether the Courts of Great Sessions had any equitable juris-

¹ Vaughan's *Practica Walliae*, p. 7. In the dedication the editor "P. M." speaks of "the late author," and the "dead author."

diction, but the point was decided in their favour by the King's Bench in 19 Car. II."¹ Two facts tend to show that Dr. Owen is mistaken in this view. No case is to be found in the Reports in which the legality of the Courts of Equity in Wales was brought into dispute before the Restoration. In the second place, Vaughan, who was an active practitioner in the Courts of North Wales at the time, makes no allusion to the decision of the King's Bench, but states that the Courts had possessed their equitable jurisdiction since the reign of Henry VIII. Mr. Justice Heywood of the Carmarthen Circuit agreed with Vaughan. When the Act of 1542 was passed, he said, the equitable jurisdiction was taken away from the Chancellor in the "ancient counties," and the Chancery Court was destroyed. But the necessity for an equitable jurisdiction in the Principality was still found to exist. In the place of a "Chancellor,"² a Chamberlain was appointed to hold the seal,³ but he was expressly prohibited from hearing equitable causes.⁴ The consequence was that the equitable jurisdiction devolved upon the judges. Indeed, in the opinion of John Wyatt of the North Wales Circuit in 1821, "the legal jurisdiction cannot exist without the equitable; because it may happen that it may be necessary to institute suits for injunction, which may be necessary to be done on the spur of the moment, in order to stop proceedings at law from going on." If this was the case in 1821, how much more necessary was it in

¹ Owen's *English Law in the Marches*, p. 25; Owen's *Pembrokeshire*, p. 50 n.

² In secs. 21 and 22 reference is made to "Stewards, Chamberlains, or Chancellors."

³ Secs. 16-20.

⁴ Sec. 21.

the days of Henry VIII.? The Court of Great Sessions exercised equitable jurisdiction because it could not carry on its functions without it. As the Chamberlain or Chancellor—who in later times was known as the Cursitor—was a Chancery official, who was charged with the duty which devolved in England on the Court of Chancery of issuing Original Writs, it was probably thought that the Legislature had inferentially sanctioned an equitable jurisdiction within the Courts of Great Sessions. As the Chamberlain was expressly forbidden to exercise the jurisdiction, the only persons left who could do so were the judges.

Mr. Justice Heywood, in his evidence before the Select Committee in 1821, gave a succinct account of the dispute which arose at the Restoration as to the equitable jurisdiction. In the year after the Restoration, he says that "the question whether the Great Sessions at Brecknock had a court of equity annexed to it arose. The decision does not appear in the report of either of the reporters who notice the case (1 Sid. 52 and S.C., 1 Keb. 129).¹ The former of them states that North Wales had a Court of Equity from time immemorial; but whether South Wales had such a court had often been disputed, owing to a doubt arising from the Clause in 27 Henry VIII., c. 26, which gives "such jurisdiction to South Wales"; and two cases were cited as having adjudged, upon solemn debate, in favour of the jurisdiction, one of them so early as the third year of Charles I. In Winn's case (1 Sid. 52) the Court of Great Sessions of North Wales is said "to be the ancient court of the said kingdom, which had been from time whereof,"

¹ Siderfin in noticing the case says: "si South Wales poient tener pleas in equity ad estre un question soven soits dispute."

etc., and is confirmed by 27 Henry VIII., "but South Wales was subdued by the Lords Marcher, and so divided into counties." The question was fairly brought before the Court, with respect to the Court of Equity of the Great Sessions for the County of Denbigh in the nineteenth year of Charles II., in the case of *Pulrath v. Griffiths* (2 Keb. 259), and the decision in that case seems to have settled the dispute. A prohibition was moved for, because Denbigh was only a new county, but the Court (of King's Bench) refused to grant it, and said "the practice having been always to proceed so, the court would not now alter it; and the words of the Statute that justice should be administered as in North Wales extends to the Courts of Equity as of law."¹

According to the evidence given before the Select Committee, the amount of equity work transacted in the courts was not heavy. Bicknell, the secondary of the Carmarthen Circuit, stated that the average number of equity cases on his Circuit was three or four. According to Christopher Temple, there was never more than one equity cause tried on each Chester Circuit, while Sir James Mansfield, one time Chief Justice of Chester, stated that in his time there were not three equity cases in ten Circuits. Lord Cawdor, in his letter to the Lord Chancellor in 1828, says that it appeared "from returns made to Parliament in 1823 that the number of Bills in Chancery, filed in the various Courts of Great Sessions in Wales, during 11 years, from the beginning of 1812 to the end of the Spring Sessions 1823, amounted to 689, or 62 per annum; the number of decrees 256, or 23 per annum; and 7 orders on further directions." He gives the average number of equity causes on the

¹ See also 1 Keb. 10, 100, 129, 168.

Carmarthen Circuit as four, and in Montgomery there had only been twenty-three equity causes in the eleven years.¹

The reason for the smallness of the number of equity causes was that the Welsh Courts had never enjoyed an exclusive equitable jurisdiction. By sec. 4 of the 1542 Act the President and the Council of the Marches were given express jurisdiction in "such causes and matters as be or hereafter shall be assigned to them by the King's Majesty," and it is certain that down at least to 1641, when the Council ceased to sit till it was revived at the Restoration, the bulk of the equitable work was transacted at Ludlow.² The Court of the Council was permanent : it sat during four terms, not merely for two weeks in the year ; and it had its proper officers for carrying on the Chancery administration. After it was abolished in 1689 most if not all of the equity causes were tried in London, where the Court of Chancery exercised a concurrent jurisdiction. Indeed, the Courts of Great Sessions never seem to have made a serious effort to enlarge their work on the Chancery side. Their machinery was incomplete ; the secondary of the Circuit acted as Master in Chancery ; and there were no means of enforcing the decisions of the Court in the vacation. The equitable jurisdiction was, however, regarded as advantageous because it aided and supplemented the common law jurisdiction of the Courts. The equity causes consisted nearly entirely of injunctions in cases of ejectment and in matters relating to the property of infants, bills for account, suits to foreclose, and suits

¹ P. 20.

² In the Hilary Term, 1633, there were twenty-two equity suits before the Council of the Marches (Skeel, p. 154).

for redemption.¹ In strictness, the equitable jurisdiction, said Mr. Justice Burton, was "confined to the county where it originates, so that a party is not entitled to go into the second or third county, unless the adverse party asks some favour." But in practice the rigidity of the rule was relaxed, and the equitable jurisdiction became ambulatory throughout the circuit.²

The Select Committee, which reported in 1821, was unsparing in its condemnation of the equitable jurisdiction.

"The objections to a local jurisdiction apply with greater force to the Court of Equity. The circumstance of the Court being open only during three weeks twice a year, thereby not affording an opportunity for those applications to the Court from time to time, so important in the course of a suit in equity; the rapidity of some proceedings and the tardiness of others; the delay which must necessarily arise from the adjournment of causes from one session to another, so that during a period of ten or eleven months in the year no progress can be made, thereby rendering a suit in the Great Sessions necessarily more dilatory and prolix than in the Courts above; the want of time for taking accounts and executing references during the Circuit; the want of power under which the Court at present labours of carrying its own decrees and orders into execution; the facility with which a person not resident within the jurisdiction may withdraw himself from the consequences of a suit which he foresees will have an unfavourable

¹ See the evidence of Mr. Justice Heywood in 1817 and of Wyatt in 1821.

² Lord Cawdor, in his letter, gives one scandalous case where, in 1827, the ambulatory jurisdiction of the Brecknock Circuit had been abused.

conclusion, while the party residing within the jurisdiction is bound down and concluded by its decrees ; the want of security in some instance for the monies paid into court ; the incompatible offices united in the same person ; the possibility of no decision being given in consequence of the division of a Court composed of two persons ; and the consideration that there is no appeal from its decrees except to the House of Lords : all tend to show the imperfect nature of the jurisdiction."

The equitable jurisdiction was undoubtedly imperfect. As has been pointed out, however, it was not designed to compete with the regular Chancery Courts in London, but to be merely ancillary to the common law jurisdiction of the Court of Great Sessions. Even in this respect, however, it was imperfect in its machinery. Lord Kensington, in the evidence which he gave before the Select Committee in 1820, supplied a somewhat startling illustration of this. The Court of Great Sessions had granted an injunction against him. He, however, ignored it on the advice of Sir Samuel Romilly, who pointed out that the injunction could not be enforced, as the Court only sat for six weeks in the year, and he did so with impunity. While, however, the equitable jurisdiction of the Court could easily be assailed on theoretical grounds, and though there were many cases in which Mr. Justice Burton admitted that it could not be exercised with utility, there seemed to be a consensus of opinion among those who gave evidence before the Select Committee that it was advantageous to have the jurisdiction. That was the opinion of Mr. Justice Burton, who had practised on the Brecknock and Carmarthen Circuits before his promotion to the Chester

Bench. Benyon, the Attorney-General for the Chester Circuit, was of opinion that "it was rather expeditious than otherwise, particularly when I contrast it with what happens in London." Mr. Justice Heywood described it as "a cheaper, more convenient, and more satisfactory mode of obtaining the object of parties on account of its nearer home than the equity courts" in London. Christopher Temple, of the Chester Circuit, stated that "the equity jurisdiction of the Court is infinitely less expensive than it is in England. Its quickness as well as its cheapness are its great recommendations, in some cases the party is able to obtain a decree in one Session, or at all events he is sure of it in the next Session." Both Counsel and Judge of the Carnarvon Circuit were emphatic in their support of the equity jurisdiction. Mr. Justice Leycester presented an address to the Select Committee in 1821 from the Grand Jury of Anglesea, in which they expressed their entire satisfaction with the manner in which the law was administered. They went on to say: "When we compare the manner in which justice is administered here with the hurry of an English Assize, or with the indefinite delay of the High Court of Chancery, when we look at the comparative costs in these courts, as well as the facilities that are here afforded to compromise, we cannot but consider our local judicature as one of the most valuable of our privileges."

The truth, however, was that the abolition of the Council of the Marches had made it impossible for the Courts of Great Sessions to exercise a full equitable jurisdiction. The anomaly of the Welsh Courts exercising all the powers of the Common Law Courts, without possessing the machinery requisite for administering an

equitable jurisdiction, rendered them open to deadly criticism. Full advantage of this anomalous state of things was taken by English lawyers and Welsh magnates who, with shortsighted vision, wished to amalgamate the administration of Wales with that of England.

The forms and methods of English legal proceedings were followed in the Courts of Great Sessions. The practice was assimilated to that which obtained in the Courts at Westminster. The pleadings continued, down to the last days of the Court, to be settled in Court, as was the custom in England at the time of the passing of the Act. The differences in the practice and constitution of the Welsh and English Courts were few and insignificant. They were due in the main to the fact that the Court of Great Sessions was a strictly local jurisdiction, and its procedure was necessarily adapted to the needs of the Principality.

The Court did not sit during the four legal terms, as the Courts did at Westminster. Secs. 5 and 14 of the Act of 1542 enacted that the Courts of Great Sessions should be held twice a year, and that "every of the said Sessions shall be kept and continued by the space of six days in every of the said shires at either of the said times, as is or hath been used within the said shires of North Wales, and that the said Justices shall cause open Proclamations to be made in the shire-towns, what time they purpose to keep their said Sessions, fifteen days at the least before they keep the same." This provision was never varied. The Sessions were kept in each county town twice a year "about the times of spring and autumn," in pursuance of writs of summons, made out by the prothonotary, tested by the Chief

Justice of the Circuit, and directed to the sheriffs of the counties within the jurisdiction.¹ Each Session lasted six days, but it was held that they were not necessarily six successive days.² The date of the Sessions was fixed, as Borough Sessions are still fixed, by the presiding Judge. Some dissatisfaction was occasionally expressed at the way the Judges used this power. They were practising barristers in the English Courts, and were sometimes inclined to fix their Courts, not merely in the vacation, but at times inconvenient to suitors and jurors, in order to serve their own convenience.³ But no complaint on this score was made to the

¹ Foley's *Practice*, p. 6 ; Russell's *Practice*, c. ii.

² Cresswell *v.* Vaughan, 2 Saund. 41.

³ George Owen in his " Dialogue of the Government of Wales," (p. 116) complains of the " inconvenience in keeping the Great Sessions of one terme of the Counsell of the Marches yearlie in Lent, which you say is a hindrance to the thrift of the Countrie and . . . poor husbandmen do most complaine of this, whose complaint for the most parte is heard last of all others." In a MS. book of precedents of pleading kept, it is thought, by Sir Erasmus Williams of Llwynwormood, in the County of Carmarthen, now in the writer's possession, there is a curious indictment dated March 31, 1708. " The Grand Jury of the Great Sessions for Carmarthenshire present Philip Neve, Sergeant-at-law, and senior Judge of the Circuit, for having on the 1st March then instant at Abergwilly arbitrarily and illegally appointed this present Session for the County to be held on Wednesday (which according to the usual custom used to be held on Saturday night or on Monday morning and continued for the residue of the same week) and which being in Passion week is not only to the high displeasure of Almighty God when all good Christians should be exercised in the discharge of their duty and service to God . . . but also a great let and hindrance to His Majesty's subjects suitors in the said Court and a great delay of justice for by these means His Majesty's subjects cannot begin and have the effect of their suits in any one Great Session, but must of necessity be retarded to the next ensuing Great Sessions which is near the space of one whole year."

Committee which inquired into the condition of the Courts in 1817-1821.¹

How the six days were used in the earlier years there is no means of knowing. It would appear from the language of Sec. 2 of 18 Elizabeth, c. 8 (the Act which authorised the appointment of a second judge to each Welsh Circuit) as if the Courts were not only busily occupied, but were increasing in popularity.² Nevertheless, the evidence which is available during the latter existence of the Courts of Great Sessions would seem to show that the six days allotted were, in most cases, too many, though in Carmarthen³ and in Chester the time, if anything, would be too short for the volume of the work to be transacted. When it is remembered that there were two Courts sitting during the week, it is clear that in the more rural counties there was much waste of time.⁴

¹ Unless a solitary statement by W. E. Taunton, of the Carmarthen Circuit, may be held to amount to such a complaint. "The time of holding the Great Sessions," he said, "has fluctuated according to the convenience of the Judges or the bar."

² Sec. 2, "And for that many great and weighty causes, matters, questions, demurrers, and ambiguities in Law do thereupon daily arise, increase, and are like daily more and more to increase."

³ "I can hardly get through what I have to do," said Russell, of the Carmarthen Sessions. See, also, as to the pressure of work in the Carmarthen Court of Great Sessions, George Owen's "Dialogue" in Owen's *Pembrokeshire*, vol. ii. p. 111.

⁴ Lord Cawdor in his letter to the Lord Chancellor, in 1828, states that the number of "bills in Chancery" in South Wales for the eleven years preceding 1823 was 689, or 62 per annum; the number of decrees 256, or 23 per annum; and 7 orders on further particulars of Common Law actions; there were tried by writ of *concessit solvere* 318, or 29 per annum; of other causes 999, or 90 per annum; of criminal prisoners 1,107, or 100 per annum. In Montgomery there had been 105 causes, or 5 causes per annum for each judge, and 23 equity cases.

The Justices held ten Courts during the six days—three Courts to appear, three to declare, and three to plead.¹ Mr. Justice Heywood of the Carmarthen Circuit, in his evidence before the Select Committee of the House of Commons in 1817, gives an account of how the six days were taken up. The first day marked the entrance of the Judges into the Sessions town, followed by members of the bar. On the second day the Grand Jury were charged, motions were heard, and routine business transacted. On the third day the Old Issues, *i.e.* the causes in which issue had been joined before the first day of the Sessions, were tried. The fourth day was given over to the trial of prisoners. On the fifth day the New Issues were tried, and on the sixth, miscellaneous work was done. The number of causes entered in the Carmarthen Circuit varied from thirty-three in 1808 to ninety-eight in 1815, though Mr. Justice Heywood does not inform us how many were tried, and the number of prisoners rose from eight in 1807 to twenty-three in 1816. Russell gives practically the same account.² The first Court was held on the evening of the first day, but neither counsel nor suitors were required to attend, as the proceedings were merely the reading of the writ of summons, and were then adjourned to the first Court of the following day. At the second Court, which was held at three o'clock in the afternoon of the second day, the charge to the Grand Jury was delivered, and motions were made by counsel. Motions formed part of the work of every Court, though at the last Court they were usually confined to "motions of course." The tenth Court was held on the morning of the sixth and last day of the Sessions.

¹ Foley's *Practice*, 43.

² Russell's *Practice*, c. ii.

The Chancery business was carried on at some of the Courts, as the other business might permit. The Chancery cases were usually heard at the evening Courts.

All the pleadings in the New Issues were regulated by the Court sitting *in banc*.¹ When time was required for filing a declaration, or for pleading, the Court would fix any day in the vacation which they thought proper ; but usually time was given to a day called " the common day," which in the vacation after the Spring Great Sessions was the first day of Trinity term, and in that after the Autumn Great Sessions was the first day of Hilary term.²

Sections 16-19 enact there should be four original seals, devised by the King's Highness, for justice to be ministered respectively in the three shires of North Wales ; in Carmarthen, Cardigan, and Pembroke ; in Brecknock, Radnor, and Glamorgan ; in Denbigh and Montgomery, which should be in the keeping and custody of the Chamberlain of North Wales, South Wales, Brecknock, and Denbigh respectively. There were thus four groups of counties constituting four " Circuits " in Wales. Section 20 enacts that the original seal of Chester shall stand for the original seal of Flint, and should remain in the custody of the Chamberlain of Chester.

The difference therefore between the practice of the Welsh Courts and the Westminster Courts was slight.

¹ All pleading was at first oral in open Court in the presence of the Judge, who superintended or " moderated the laro ", contention. Oral pleading was abandoned *temp.* Edward III. but it is not known when the practice of regulating pleadings by the Court, which survived in Wales till 1830, was abandoned in England (*Stephen on Pleading*, pp. 29-30).

² *Foley's Practice*, 44.

The Chamberlain or Chancellor (as he is indifferently called in Secs. 21 and 22) issued the original writ, and not the Court of Chancery as in England. The Chamberlain was a Chancery officer who became known in later times as the Cursitor. He was appointed by the Crown for life by letters patent, and his sole function was to issue original writs, and to account for the profits of his office to the king.

Section 33 enacts that "all personal Actions, as Debt, Detinue, Trespass, Accompt, and such like, amounting to the sum of 40s. or above, shall be sued by writs original, to be obtained and sealed as is aforesaid, or by Bills, at the pleasure of the party suing the same, before the said Justices within the limits of their authorities, as is used in North Wales." But all actions real and mixt, Attaints, Conspiracies, Assizes, and Quare Impedit, Appeals of Murder and Felony, and all actions grounded upon any Statutes, had to be sued by original writ,¹ while all personal actions under the sum of 40s. were to be sued by Bill, "as is used in North Wales."

In England an original writ (*breve originale*) issued out of the Court of Chancery under the Great Seal. It was in the king's name, it was directed to the sheriff of the county where the injury was alleged to have been committed, it contained a summary statement of the cause of complaint, and it required the sheriff, in most cases, to command the defendant to satisfy the claim; and on defendant's failure to comply, then to summon him to appear in one of the superior Courts of Common Law, there to account for his non-compliance. If the defendant did not appear to the original writ, there issued other writs, called writs of process. They came

¹ Sec. 32.

from the Court of Common Law, not from the Court of Chancery, and were not under the king's seal, but under the private seal of the Court. Hence they were called judicial writs. All actions commenced with the issue of an original writ, unless either the plaintiff or the defendant was "privileged," *i.e.*, an officer or a prisoner of the Court. In that case, the procedure would be by Bill without suing out an original writ. But this procedure by Bill related only to personal actions, and not to real or mixed actions.¹

Such was the practice in the English Courts at the time of the passing of the Act of 1542. The procedure sanctioned by Secs. 33-34 of suing by Bill instead of by original writ, at the option of the litigant, was a noteworthy improvement on the inelastic English practice.

The chief utility of proceeding by Bill seems to have been the acceleration of the trial of a cause.

"If the debt be due within 15 days of the Sessions, or the case otherwise lyes (as several wayes it may) so that the action cannot be begun by an original writ, then there must be a Queritur or a Bill had from the Prothonotary's office." ²

On the other hand, if a substantial amount was at stake, or it was feared that the defendant would remain outside the jurisdiction, the plaintiff would prefer to sue by original writ in order that he might, in the last resort, "proceed to Outlawry against the defendant," which he could not do unless he had proceeded by original writ.

But the most characteristic proceeding in the Courts of Great Sessions was the action known as *Concessit*

¹ *Stephen on Pleading*, p. 5.

² *Practica Walliae*, 10 ; *Jones's Practice* (1828), p. 63.

Solvere. It was well established in the time of Rice Vaughan, who describes it with some minuteness.

"In all or most actions of Debt without Bond or Specialty upon simple contracts, there is a far shorter and less intricate way to declare, and so ground an action, then in the Courts above at Westminster, by the ancient custome of North Wales, had and deduced from those three Northern Counties that were shire-grounds time beyond all memory,¹ and are (indeed) rightly and properly the very North Wales, which way is by meer and plain *Concessit Solvere*, and no matter expressed besides the time and place of the contract, and the day of payment, whereunto the defendant most commonly pleads the afore-mentioned general issue of *Nil debet per patriam*, and at the trial the whole matter and consideration will be given in evidence, so that thereby the plaintiff saves what often falls out, by declaring specially in an action upon the case for every debt upon small contracts, wherein the plaintiff will be more closely held to prove all circumstances mentioned in the declaration, for all actions upon the case are strict, and therefore more subject to miscarry, and by several wayes overthrown then those general wayes of *Concessit Solvere*, which are constantly used and approved by the priviledge of the Custome aforesaid, which are often beneficial to the plaintiff in many things, for the defendant hardly (till the trial) knows (if many bargains passed between him and the plaintiff) upon which of them the plaintiff will produce his proof, and if the plaintiff can make proof of but part of the Debt declared, he shall recover so much, for the defendant's plea (upon which issue is

¹ The three counties of North Wales were made into shire-ground by the Statutum Walliae, 1284.

joyned) sayes he doth not owe that debt or any part thereof, and so it is beneficial in many things else, but not in actions upon the case for debt, where the proof must be punctual with the Declaration.”¹

There can be no doubt that the use of a general form of Declaration, and the practice of pleading the general issue, was highly convenient in days when special pleading had become a fine art, and demurrers and non-suits on technical and subtle points of pleading had become general. Nevertheless, the method of pleading in use in *Concessit Solvere* was open to criticism. The defendant, as Vaughan gleefully asserts, did not know with certainty what case he would have to meet, and the plaintiff would not know which of some seven or eight defences open to him under his plea of *Nil debet* would be relied on by the defendant. These objections prevailed in England for many years, and it was only in the latter half of the eighteenth century that a general form of declaration was allowed to be used in *indebitatus assumpsit*. According to Sir N. Tindal it was Lord Mansfield who first adopted it.² Lord Holt had seen the utility of it, but had said that he would be a bold man who ventured to employ it. The practice was brought into general practice by Lord Mansfield's authority, and it did much to mitigate the harsh rigidity of special pleading. As, however, the defendant could obtain particulars of the plaintiff's claim, he suffered no inconvenience, but no trace can be found of a similar practice in *Concessit Solvere*.

Vaughan was, however, wrong in supposing that *Concessit Solvere* was peculiar to the Welsh Courts, for it was

¹ *Practica Walliae*, pp. 12-14.

² *Hansard*, vol. xviii. col. 833.

also known in the Courts of the City of London and of Bristol.¹ The chief characteristic of the process was that the plaintiff's claim was for a sum certain, or capable of being reduced to a certainty,² or on a *quantum meruit*. Though it was an action for debt, it was held good for attorney's fees, for rent in arrear, or for money recovered in the County Court, Court Baron, or Hundred Court, or for an amerciament in a Leet or Baron Court. The general rule in later days was that a *Concessit Solvere* would lie "in all cases where an *indebitatus assumpsit* will lie in England."³

The defendant in his plea could plead the general issue, *nil debet per patriam*; or he could wage his law, *nil debet per legem*. The practice of waging the law fell into disuse. The last record of it was in 1747.⁴

Foley⁵ and Russell⁶ agree that it was "usual to sue out an original writ where it is intended to proceed by a *Concessit Solvere*."⁶ But elsewhere Russell appears to doubt if it was really necessary to sue out an original writ.⁷ The truth is that in earlier times it was the custom to proceed by original writ, but in latter days an original writ was never sued out in *Concessit Solvere*. This was due to the introduction of a process upon plain paper called "The New Rule." This was explained by Goodman Roberts, attorney, of Ruthin, to the Select Committee in 1817 in the following terms: "When you proceed in an action of debt against a person, you give

¹ 1 Saund. p. 68, n. 2; *Pascall v. Sparing*, St. 98.

² Russell's *Practice*, p. 59.

³ Jones's *Practice* (1828), p. 63. He states that payment into Court could be made in the action.

⁴ Russell's *Practice*, p. 60.

⁵ Foley's *Practice*, pp. 12-16

⁶ Russell's *Practice*, p. 59.

⁷ See, e.g., note g. on p. 56

him this sort of notice upon plain paper, viz., 'Take Notice, that an Action of Debt will be brought against you, and unless you appear and pay the debt by such a day, judgment will be signed against you.' This is the summary method." He stated that the New Rule was introduced in the North Wales counties in the previous year, and presumably it had already been introduced into South Wales. Christopher Temple of the Chester Circuit, while dwelling on the comparative cheapness of litigation in Wales, pointed out that whereas in England all actions commenced by writ, in Wales no writs were issued, but all actions proceeded on "the new rule." John Evans, the Deputy-Prothonotary of North Wales, stated that "whenever a defendant is proceeded against by the new rule, the declaration is always in *Concessit Solvere*." The Common Law Commissioners in their first Report, issued in 1829, state that the action of *Concessit Solvere* "is commenced by notice instead of writ," and they go on to criticise the action on that account. For, they said, if the plaintiff, after notice to the defendant that he is proceeding with his action, does not attend the Court, the defendant cannot get his costs, for, as there was no writ, there was no proceeding before the Court. Similarly, if the defendant paid before issue was joined, the plaintiff would not get his costs.

After giving fifteen days' notice, the plaintiff attended the Great Sessions. If the defendant did not appear, the plaintiff would get judgment by default. About half the actions brought ended in this way. If the defendant appeared, the plaintiff would put in his Declaration. The defendant always pleaded the general issue, and the plea of the Statute of Limitations and other pleas, such as set-off, or infancy, could be put

in. All the special pleading in *assumpsit* was available in *Concessit Solvere*.¹

In spite of some obvious drawbacks the action of *Concessit Solvere* retained and even increased its popularity. In his evidence before the Select Committee in 1820, James Spencer, attorney, of Hay, said that there were ten actions of *Concessit Solvere* brought for every one other action, though the number of trials was about equal. An action for rent, for instance, would not be by *Concessit Solvere*, and attorneys "for their perquisites" often preferred to proceed by *Capias* in actions on bonds and notes. Sometimes, too, there was no time to give fifteen days' notice, and in that case proceedings by *Capias* would be taken. But, as a rule, *Concessit Solvere* was cheap, speedy, and efficacious.

Proceedings by Bill in England were more limited than in the Welsh Courts. They were at one time confined to actions in which either the plaintiff or the defendant was a privileged person, *i.e.* an officer or prisoner of the Court, or a Member of Parliament. But such actions had to be personal actions, and not real or mixed. By Sec. 33 of the Act of 1542, all personal actions might, and all personal actions under 40s. must, be by Bill. The Bill was required to be sealed with the judicial seal in the custody of the Justice, and also to be tested by the Justice.²

After 6 George II., c. 14, the practice of proceeding in the actions mentioned in Sec. 32 of the 1542 Act by original writ was gradually discarded in the English

¹ See the evidence of Oldnall Russell and Christopher Temple before the 1817 Select Committee, and Mr. Justice Heywood, in 1821.

² Secs. 37-38.

Courts, and the Welsh Courts adopted the same procedure as prevailed in the Common Pleas.¹ The new practice was to proceed by *Capias ad respondendum*, without suing out an original writ.² The *Capias* was a judicial or process writ, issuing from the Common Law Court upon a supposed original,³ and was obtained from the Prothonotary upon delivering a memorandum or minute of the attorney's warrant, containing the names of the parties prosecuting and defending the suit, of the attorney concerned, and the style of the court in which the action was brought,⁴ and delivering also a praecipe for the writ.⁵ The writ had to be tested by the Chief Justice, and made returnable on the first Wednesday in any month during the vacation, or on the first day of the next Sessions.⁶ If it was not intended to arrest the defendant, the praecipe ran as follows :

“ Carmarthenshire to wit.—Capias for A.B. against C.D. late of — in trespass (or as the case may be) returnable on —.”

If it was intended to arrest the defendant the *ac etiam* clause had to be added after the mention of the cause

¹ Foley's *Practice*, p. 25, held that proceedings by *capias* were first established by 6 George II., c. 14.

² Russell's *Practice*, c. vi. ; Foley's *Practice*, p. 6.

³ Russell, p. 67, *n.*, who disagrees with Foley, p. 25. Stephen (*On Pleading*, p. 25) says that *capias* was originally a process writ, but that it became the general practice, in order to save time and expense, to resort to it in the first instance, and to suspend the issue of the original writ, or even to neglect it altogether, unless its omission should afterwards be objected to by the defendant.

⁴ 25 George II., c. 80, sec. 13.

⁵ Foley's *Practice*, p. 7.

⁶ 13 George III., c. 51, sec. 15.

of action, *i.e.* "and also for £100 upon promises."¹ A proper affidavit of the debt had also to be prepared and filed with the Prothonotary before or at the time of suing out the writ. In the latter days of the Court, all the proceedings were by *Concessit Solvere* or *Capias*.

The Act of 1542 enacted that a Justice should be appointed for each of the four Welsh Circuits. The Justice of Chester was enjoined "to hold Sessions twice in every year in the shires of Denbigh, Flint, and Montgomery, and have nothing but his old fee of an hundred pounds yearly for the same."² The Justice of North Wales was to hold Sessions in Carnarvon, Anglesey, and Merioneth at a yearly fee of £50.³ Another Justice, at a like salary, was to hold Sessions in the counties of Brecknock, Radnor, and Glamorgan;⁴ and a fourth in Carmarthen, Cardigan, and Pembroke.⁵ By the Statute 18 Elizabeth, c. 8, it was enacted that "forasmuch as by the good administration of justice the Principality . . . of Wales and the County Palatine of Chester are reduced to great obedience of Her Majesty's laws and the same greatly inhabited and manured, and peopled . . . and for that many great and weighty matters questions demurrers and ambiguities in law do thereupon daily arise increase and are like daily more and more to increase within the said shires" it is ordained, in reply to the most humble petition and suit⁶ of the inhabitants of Wales and Cheshire, to have two justices learned in the law in each of the several Circuits. From

¹ Russell's *Practice*, pp. 16-17, of Precedents. But it was held in *Boyd v. Durand*, 2 Taunt., 161, that this was not absolutely necessary.

² Sec. 6.

³ Sec. 7.

⁴ Sec. 8.

⁵ Sec. 9.

⁶ No trace of this Petition has been discovered.

1576 onwards, therefore, two justices were appointed to each Circuit. They sat in separate Courts for the trial of jury cases, civil and criminal, but they sat *in banc* for chamber and chancery work. The question was raised in the reign of James I. whether they should be appointed by letters patent under the great seal or by commission. It was referred by the Privy Council to the consideration of the twelve judges, who decided that the appointment ought to be by letters patent.¹

The fees or salaries of the justices were at first fixed at £50 a year for seven judges, and £100 a year for the Chief Justice of Chester; £30 a year was allowed for "diet." During the Commonwealth the salaries were fixed at £250 a year. After the Restoration the old salary was paid.

In 1759, 1772, and 1809 the salaries of all the Welsh judges were increased by Act of Parliament, so that in 1830, when the Courts of Great Sessions were abolished, the Chief Justice of Chester enjoyed a salary of £1630, the puisne Justice of Chester £1250, and each of the other six judges £1150.² The Chief Justice of each Circuit received some fees in addition to their salary. No pensions attached to the offices.

Much was said from time to time to the disparagement of the Welsh judges. Perhaps the oldest complaint against them was that they got to know the gentry of their Circuit, and became guilty of partial affection when any of their friends appeared as litigants before them. Among the Bridgwater Papers is a document headed

¹ Coke's *4th Inst.* c. 47, p. 240.

² For a more detailed account of the variation in the salaries of the judges, see the writer's article on the Court of Great Sessions in the *Cymmrodor*, vol. xxvi.

“Provisions for a court to be established in Wales, etc., 1641,” and it states “how little the presence of two Justices that be practicers of Lawe at Westminster will avayle, to whom the Gentrye can make their owne accesse and applicacion.”

The complaint was echoed by Brougham in his famous speech in the House of Commons on Legal Reform in 1828. The judges, he said, always went the same Circuit. “And what is the inevitable consequence? Why, they become acquainted with the gentry, the magistrates, almost with the tradesmen of each district, the very witnesses who come before them, and intimately with the practitioners, whether counsel or attorney . . . and out of this grow likings and prejudices.” But it is to be noted that these charges were merely general complaints which would apply against all local courts, such as County Courts and Police Courts. There was no attempt to prove that, in fact, the Welsh judges were partial or corrupt.

Another complaint was better founded. The Welsh judges could sit in Parliament, and it was asserted that appointments to the Bench were sometimes made for political reasons. It is certainly a good rule that a judge should be debarred from sitting in Parliament, but it should be remembered that Recorders are to-day allowed, like the Justices of the Great Sessions, to sit in Parliament, and to practise at the Bar even in the very towns where they sit as Recorders. Nor should it be forgotten that it is only in recent times that the Master of the Rolls has been declared incapacitated from sitting in the House of Commons. Lord John Russell, in a debate in 1820, said that as the Welsh judges were eligible for seats in that House, their posts

were looked upon as retainers or rewards for the support of ministerial measures.¹ Lord Bulkeley stated in 1817, before the Select Committee, that nearly all the judges had been in Parliament when appointed. Lord Cawdor, in his letter to the Lord Chancellor on legal administration in Wales (1828), said that "individuals have been selected rather from Parliamentary services than for their legal acquirements." But it is worthy of note that in 1829 only one of the eight judges had a seat in Parliament.² Certainly the taunt of political promotion came with a bad grace at a time when—according to Brougham—"party, as well as merit, must be studied in these appointments (of judges). . . . I defy him (the Solicitor-General) to show me any instance for the last 100 years of a man, in party fetters, and opposed to the principles of the Government, being raised to the Bench. . . . Never have I heard of such a thing, at least in England." The system was undoubtedly open to grave criticism ; but we should not apply to it the higher standard of a later age, and we should not forget that no complaint of political partiality was ever brought against the Welsh judges even by their bitterest critics.

The fact that the Welsh judges were also practising barristers was another undoubted evil ; but here again the practical evil was grossly exaggerated in the interests of partisanship. "Often," said Brougham, "these gentlemen have left the Bar and retired to the pursuits of country gentlemen. . . . In some cases they continue in Westminster Hall—which is so much the worse—because a man who is a Judge one half of the year and

¹ Owen's *English Law*, p. 29.

² Report of Commission on Common Law, 1829.

a barrister the other, is not likely to be a good Judge or a good barrister." " His acting as counsel in England and judge in Wales," said Lord Cawdor in his letter, " is a great source of distrust. . . . It has also happened, I believe, that cases have been submitted to Welsh judges in their capacity as counsel, under feigned names, and that when the cause has been tried, the same person has given a different decision." Lord Cawdor had succeeded Mr. Ponsonby as Chairman of the Select Committee. He must have known, therefore, that there was no authentic case where the scandal which he " believed " had occurred had in fact taken place. The point was specifically put to Mr. Justice Burton in 1817, and as he had known the Courts of Great Sessions for over forty years, his reply is surely worthy of consideration.

" *The Chairman* : Is it not in the power of either of the parties, previous to commencing a suit in the Court of Great Sessions, to obtain the opinion of the Judge, in case he is a practising barrister, by putting a case to him under feigned names ? "

" *Burton, J.* : Frauds of all sorts may be committed in such a manner as to elude the most vigilant person ; but all the Welsh Judges whom I have known have been peculiarly cautious in guarding against any fraud of that description : and I believe no Welsh Judge would ever answer a case put in A and B without obtaining an absolute assurance that that case did not arise within his jurisdiction, and certainly if he had found it out afterwards to have arisen within it, he would not take part in the trial of the cause, and would take such means as he could to censure the parties."

There was no suggestion that in fact any such " fraud " had ever been perpetrated. It would have been more

satisfactory if the Welsh judges had been prohibited from practising at the Bar or sitting in the House ; but that is no reason why unproved insinuations should be levelled against a body of men who on the whole seem to have discharged the function of their office with acceptance.

The third and final Report of the Select Committee, under the chairmanship of the Hon. Frederick Campbell (afterwards Lord Cawdor), stated that "when the two Judges differed, there was no decision, and there was no appeal except to the House of Lords, and by writ of error to the King's Bench." Here, again, there was no evidence to support the suggestion that the evil in fact existed. Mr. Justice Burton, of the Chester Circuit, was emphatic that no such deadlock had occurred during his long experience. Mr. Justice Heywood, of the Carmarthen Circuit, stated that, so far from any inconvenience arising, "I consider it one of the greatest comforts of my life to have a co-adjutor on the Circuit. There has never been a difference of opinion between myself and my learned friend that has in the least impeded the business of the Court." The criticism was merely theoretical, and in no sense founded on the actual facts. But if there had been any such inconvenience, it could have been remedied by forbidding the judges to sit *in banc*, or by reducing the number of judges to the original limit.

The lack of a retiring pension was also a source of hostile criticism. "Consequently," said Brougham, "they retain their salaries long after they have ceased to discharge properly the functions for which they receive them." But it is not only unpensioned officers that lag superfluous. County Court judges to this day

are not entitled, as of right, to a retiring pension. Even if this were an evil, the remedy was obvious.

It was a common reproach in the mouth of opponents of the Welsh Courts that, as Brougham said, "in Wales you have as Judges, I will not say inferior men, but certainly not the very first." It was certainly true that the Welsh Bench was inferior to that in the Courts at Westminster, exactly as the County Court Bench is to-day inferior to the High Court Bench. But that is a long way from saying that the Welsh judges were incompetent. They seem to have given fairly general satisfaction to Welsh litigants, and hardly a practitioner wished to change the system.¹ Certainly some of the most eminent English lawyers acted at some period of their career as Welsh judges. Among them were Lords Chancellor Jeffreys and Lyndhurst; Lords Keeper Puckering and Lyttleton; Keble, Bradshaw, and Willes, who served as Commissioners of the Great Seal; Lord Chief Justices of England Ley, Wright, Herbert, and Kenyon; Chief Justices of the Common Pleas Mansfield, Arden, Dallas, and Best; Vice-Chancellors Plumer and Leach; Masters of the Rolls Hare, Jackyll, Verney, and Grant; Chief Barons Brooke, Probyn, Skynner, Macdonald, Richards, and Gibbs; and a large number of puisne judges of the Common Law Courts. Out of the 217 Welsh judges appointed between 1542 and 1830, more than one-fourth were promoted to the High Court Bench in England.²

¹ See *e.g.* the eulogy passed by George Owen (Owen's *Pembrokeshire*, vol. ii. 94-97) on all the Justices going the Carmarthen Circuit in the reign of Elizabeth.

² "Of the 200 Judges of the Great Sessions, scarcely 30 knew the language of the people in whose behalf they were appointed" (Edwards's *Wales*, p. 336).

The Chamberlain.—The original seals were to be in the custody of the Chamberlains of North and South Wales and Chester, the Steward and Chamberlains of Brecknock and Denbigh respectively.¹ In Secs. 21-22 of the Act of 1542 this officer is called “Steward, Chamberlain, or Chancellor.” In the later Practice Books he appears as the Cursitor,² who was properly an officer of the Court of Chancery. He held his office by letters patent under the great seal for life.³

The Prothonotary.—Sec. 44 of the Act of 1542 enacted that each Circuit should have a “prenotary” or prothonotary “for the making of all pleas, process, and matters of record.” To the office was united that of the Clerk of the Crown. It was held by letters patent under the great seal for life. It was his duty to attend upon the justices, to estreat all fines and forfeitures of recognizances into the Court of Exchequer for the Circuit.⁴ All process, pleas, records, or other proceedings were filed in his office. It was expressly enjoined that the duties might be performed by deputy.⁵

The Secondary was an officer appointed by the Prothonotary, and acted as Master, Clerk of the Rules, Clerk of Assize and Deputy-Clerk of the Crown. In his office, as Deputy-Clerk of the Crown, after an indictment was found by the Grand Jury, all subsequent proceedings in criminal matters were carried on.⁶

The Marshal or Crier was appointed by the judge.⁷

The Clerk of Indictments was appointed by the Chief Justice.⁸

¹ Secs. 16-20.

² Russell's *Practice*, p. 6.

³ See p. 17, *supra*.

⁴ Sec. 52.

⁵ Sec. 44.

⁶ Foley's *Practice*, 4.

⁷ Sec. 45.

⁸ Foley's *Practice*, 4.

Sheriffs were first appointed in the ancient counties of Wales by the *Statutum Walliae*. The Act of 1542 directs that there shall be sheriffs appointed by the king in every shire in Wales, and that their offices shall be of the same duration as in England,¹ and with the same power and authority.² They were to execute all lawful commandments and precepts of the Justices of Wales, to be attendant upon them, to assist them, and to obey the king's commandments and process from them directed.³ By 1 Edward VI., c. 10, sec. 3, they were required to have deputies in the Courts of King's Bench and Common Pleas to receive writs, in like manner as the sheriffs of England. By 1 William and Mary, c. 27, sec. 3, the Justices of the Great Sessions were to nominate yearly three substantial persons for each shire, in their respective circuits, to be sheriffs of the same; and to certify their names to the Privy Council *crastino animarum* to the intent that the king may appoint one of the persons named to be sheriff for that year. Before this statute, the President and Council and Justices of Wales, or three of them at the least, whereof the President was to be one, had yearly to nominate.⁴

By Sec. 22 of 3 George I., c. 15, the Welsh sheriffs were exempted from appearance in the King's Court of Exchequer, but they were to account before the auditors of Wales.

The Attorney-General.—Each Circuit had its own Attorney-General, who had "the power of appointing

¹ Sec. 61. Before 1542 they were appointed for life (Owen's *Pembrokeshire*, i. 156; ii. 42; Breese's *Kalendars of Gwynedd*, pp. 31-33).

² Sec. 62; for the sheriff's judicial functions see *supra*, p. 44.

³ Sec. 65.

⁴ Sec. 61.

a deputy, as the Welsh Justices used to have before that power was taken away by the 13th of the King.”¹ The Attorney-General was appointed by patent under the Great Seal, and held his appointment during the pleasure of the Crown. Benyon, the Attorney-General for the Chester Circuit, thought that the appointment was probably not made under 34 and 35 Henry VIII., but that it was in pursuance of the practice prevailing in the ancient Welsh counties previously to that statute.² But the Crown had certainly power under Sec. 119 to make such an appointment. In Sec. 34 of the Act of 1830 (1 William IV., c. 70) he is described as “His Majesty’s Attorney-General.” His duties were to sign all indictments before submitting them to the Grand Jury; to prosecute prisoners; and to appear for the Crown in every case in which the Crown’s name was used. He had a fee of 6s. 8d. for signing each indictment, and a retaining fee of £8 12s. 4d.³ An attorney, who was called the “Crown Solicitor,” was appointed to conduct all prosecutions at the expense of the county.

The Bar.—Nothing about counsel is said in the Act, but it would appear from the evidence of Mr. Justice Burton before the Select Committee in 1817 that all

¹ Mr. Justice Burton’s evidence.

² Sir W. Owen, the Attorney-General for Carmarthen, stated that “the office was mentioned in the Statute of Henry VIII., as was also the office of Solicitor-General,” though, he added, that in his opinion “these offices existed before.” They are so mentioned in Sec. 55 of the Act of 1542, where the Attorney and Solicitor are both made *ex officio* Justices of the Peace. But nothing is heard of the Solicitor-General of each Circuit, unless he was the deputy who might be appointed by the Attorney-General, or he may be the same person as “the Crown Solicitor.” He is not mentioned in the Act of 1830.

³ Doddridge, p. 72.

barristers of the Inns of Court were entitled to practise, and a few Chancery barristers attended each circuit.¹ In later times nearly all the practitioners were members of the Northern or of the Oxford Circuit. From the care which was displayed to fix the Courts in South Wales after the Oxford Circuit, it would seem as if the majority of the counsel in the South Wales Sessions belonged to the Oxford Circuit. Their numbers were small; between five² and ten³ attended the Chester Circuit, twelve or fourteen the Carmarthen Circuit,⁴ and four or five the Brecknock Circuit⁵.

Attorneys.—No Attorneys could practise except such as were admitted by the Court for each of the districts,⁶ after they had been examined by the Judges of the Court touching their fitness and capacity.⁷ Such Attorneys need not have been admitted as Attorneys of any of the Courts of Record at Westminster.⁸ The only difference between them and the Attorneys of the Westminster Courts was in the duty to be paid upon their contract or clerkship, which was half of the duty paid in England, and they only had to serve as clerks for five years.⁹ The Prothonotary was to enrol the names

¹ Spencer's evidence, 1821.

² Mr. Justice Leycester's evidence in 1817.

³ Benyon's evidence, 1817, stated that twenty counsel attended at Chester.

⁴ Mr. Justice Heywood in 1817.

⁵ Mr. Justice Wingfield in 1821.

⁶ Mr. Justice Burton's evidence, 1817.

⁷ 2 George II., c. 23, s. 2.

⁸ 22 George II., c. 46, s. 13.

⁹ 2 George II., c. 23; 2 George II., c. 46, secs. 5, 12, 13, 15; 12 George II., c. 13, s. 3; 22 George II., c. 46, s. 2, and 30 George II., c. 19, s. 75 also dealt with the position of Attorneys.

of Attorneys, who had to take out their annual certificate, however, from the head office of stamps at Middlesex.¹ All Attorneys, so authorised, could act in their own name in the Welsh Courts ; and in the Courts of the Counties Palatine of Chester, Lancaster, and Durham in the name of any Attorney of those Courts who consented. But they could not act in the Courts at Westminster.²

Complaint was made that admission to the profession was so much cheaper in Wales than in England, and that litigation was so cheap and plentiful that there was a multiplicity of Attorneys. George Owen, in the reign of Elizabeth, brought a similar complaint against the Ludlow Court. The profession was manned, according to Lord Cawdor and others, by an inferior class of person, and a Swansea Attorney stated before the Select Committee that no Attorney of good standing would dream of bringing up his son to the profession, because he would have to associate with undesirable persons. Lord Kensington haughtily said that he never employed a Welsh Solicitor. That there was some ground for the complaint is true, but the evil again was greatly exaggerated by the opponents of the Courts of Great Sessions. Counsel from the Carnarvon Circuit, in 1821, described the Attorneys as "competent," and there were instances where Welsh Attorneys were also Attorneys at the Westminster Courts.³ It is extraordinary how slight the evidence was, when the generality and vehemence of the allegations are remembered. There was certainly a consensus of opinion, though it was somewhat discounted by the Select Committee, by Lord Cawdor, and

¹ 2 George II., 23.

² 34 George III., c. 14, s. 40.

³ *e.g.*, James Spencer of Hay.

by the Commissioners in 1829, that litigation was cheaper in Wales than in England.¹

During the first one hundred years of its existence, there was little friction between the Courts of Great Sessions and other courts. It has been shown how there was a constant tendency on the part of the Council of the Marches to encroach upon the Common Law jurisdiction of Great Sessions. The Privy Council time and again censured the Welsh Council for this practice, and even as late as 1593 the Council of the Marches was instructed "to occupy time in hearing misdemeanours rather than cases triable at Common Law."² In the following year similar instructions were given more in detail. None the less, the relations between the two Welsh Courts were on the whole harmonious. The reason is not far to seek. The judges of the Ludlow Court were drawn from the Bench of the Great Sessions, and the Chief Justice of Chester, who was generally the Vice-President of the Council, presided when the Council sat as a Court of Law.³

¹ Brougham, though he stated that the Welsh Judicature was "the worst ever established," gave an appalling account of the Courts at Westminster and elsewhere, which cannot be paralleled by any evidence given before the Select Committees. "I asked the Prothonotary four years ago at Lancaster," he said, "to give me a list of 50 verdicts obtained at the Lent Assizes. The average was under £14. But if the money recovered amounted in all to less than £900, the costs incurred certainly exceeded £5000." At Westminster, a clergyman's widow brought an action for payment of mortgage money. The costs came to £99 14s., and the action lasted two years! Compare this with the statement made in 1830 in the House of Commons by John Jones, M.P., who practised on the Circuit, that in Carmarthen £13,000 had been recovered in 1829 at the expense of £5.

² Lans. MSS. 76, ff. 1416-9; *ib.* ff. 141b-9 (May 1594).

³ "The Justice of Chester was always the chief working member and in various ways exercised supervision over them. . . . Care

As long as the Council survived, the Court of Great Sessions was not interfered with by the Westminster Courts. The Council suspended its sittings from 1641 to the Restoration. Shortly after the Restoration we find for the first time that the equitable jurisdiction of the Great Sessions was questioned.¹ At first sight it would seem as if the disappearance of the Council in 1689 would strengthen the position and enhance the influence of the Courts of Great Sessions. This however was not the case. The abolition of the Council made the survival of the equitable jurisdiction of the Great Sessions somewhat ludicrous in its incompleteness and imperfection. The jealousy of the Westminster Courts was transferred to the local jurisdiction. Early in the eighteenth century they began their attempt to bring Welsh litigants into their net.² The story of the manner in which the English Courts usurped a jurisdiction in Wales is characteristic, and it undoubtedly led in the end to the abolition of the local courts.

One or two attempts had been made in the early Stuart reigns to claim for the King's Bench a concurrent jurisdiction in Wales. But such attempts were not successful. At the end of Vaughan's Reports, 395, a treatise is to be found, in which the late Chief Justice of the Common Pleas, *temp.* Charles II., cites a case

was taken, in issuing instructions to the Council, to provide for the absence of the legal members on Circuit. . . . Instances of conflict of jurisdictions between the two bodies are not common." (Skeel's *Council*, pp. 277-8, quoting *A.P.C.* xii. p. 115.)

¹ *Supra*, pp. 72 *seq.* It is to be presumed that the appellate jurisdiction of the Ludlow Court in personal actions was exercised during the Commonwealth by the House of Lords, though I have found no evidence of this.

² "Discourse" (anon.) in Hargrave's *Law Tracts*, 1. 359.

where all the judges decided that "a judgment, given in Wales, shall not be executed in England, out of their jurisdiction, and *a pari*, a judgment, given in England, ought not to be executed in Wales." After a lengthy and elaborate argument, the Chief Justice concluded that Wales was a separate jurisdiction, and that "if judgments be obtained in the King's Courts against persons inhabiting in Wales, and process of execution awarded thither, the judgments will be ineffectual." He condemned in strong terms the attempt of the King's Bench to steal the Welsh jurisdiction.

The great authority of Chief Justice Vaughan had the effect of securing the Welsh Courts from the encroachments of the Westminster Courts for two generations and more. In 1745, however, the attempt was renewed in the case of *Lampley v. Thomas*, where it was argued that a *latitat* out of the King's Bench could run into Wales.¹ It was, however, decided "*brevis Domini Regis de latitat* (and *semble* other mesne process between subjects) *non currit in Wallia*." ² In his judgment in

¹ 1 Wils. 193, v. ; *supra*, pp. 18-20. "This great question," it is stated in the report, "whether the Court of King's Bench have jurisdiction to send a *latitat* into Wales has been four times most learnedly argued at the bar by gentlemen of the greatest learning and experience."

² The anonymous author of the "Discourse" in Hargreave's *Tracts* says: "I heard the case of *Lampley v. Thomas* argued. . . . This pretence of a jurisdiction in the King's Bench appears to me to be not only unwarranted by law or precedent, but clearly opposed and contradicted by both." When an action was contemplated in the King's Bench against a person not already privileged, the course was for the plaintiff to cause him to be arrested on a fictitious charge (foreign to the proposed action) of a trespass. This was effected by virtue of certain judicial writs which the Court had power to issue in such cases called "the Bill of Middlesex and *latitat*." Upon such arrest the

Mostyn v. Fabrigas, Lord Mansfield said that "if an action is brought here for a matter arising in Wales, you must show the jurisdiction of the Court in Wales. If there is no other mode of trial, that will give the King's Court jurisdiction." Whatever may be said of the soundness of that decision, it came short of claiming a concurrent jurisdiction for the Westminster Courts in actions over which it could be shown that the Welsh Courts had jurisdiction. When, however, the words of the Act of 1542 are recalled, in which as large and ample a jurisdiction was conferred on the Welsh Courts as was enjoyed by the Courts of King's Bench, Common Pleas, and Exchequer, it is difficult to understand how the contingency contemplated by Lord Mansfield could arise.¹

The case of *Lampley v. Thomas* has been generally supposed to have been overruled by *Lloyd v. Jones*

defendant was committed to the prison of the Court, or, according to the legal phrase, "to the custody of the Marshal of the Marshalsea." The plaintiff then commenced the action by filing a bill against him, which, as he had become a prisoner, was authorised. If instead of being committed to custody he gave bail, this was considered as of equal effect for the purpose of founding the jurisdiction. In process of time it came to pass that the defendant was not actually arrested, but was merely committed to the custody of the Marshal of the Marshalsea "by fiction or intendment of law," in order that the plaintiff might begin his proceedings by suing out a "Bill of Middlesex and latitat." The anonymous author of the "Discourse against the jurisdiction of the King's Bench over Wales by process of latitat" roundly describes latitat as "a fraudulent contrivance to steal jurisdiction, a lie from the beginning to the end" (Hargrave's *Law Tracts*, i. p. 422).

¹ The writer of the "Discourse" in Hargrave's *Tracts* retorted, "To what purpose will it be for them to harp upon that old rule, that their Court is not to be ousted of their jurisdiction without negative words, when they never had any jurisdiction of which they could be ousted" (p. 409).

(1769).¹ This case is only mentioned in a note to the case of *Penry v. Jones* (1779),² which would appear to be the case referred to in his evidence before the Select Committee in 1817 by Mr. Justice Burton. But Russell's account of the case shows that a great deal more importance was ascribed to the decision than was warranted by the circumstances under which the decision was given.

"With respect to the case of *Lloyd v. Jones*, though it is said in Douglas that Mr. Justice Yates considered the question in that case very particularly, and delivered a solemn argument upon it, yet its authority has been doubted, and it is to be lamented, if in fact it received a grave decision, that no regular report of it has been published. Different accounts of it have been given, and the author is permitted by Mr. Sergeant Heywood, the present Chief Justice of the Carmarthen Circuit, to transcribe the following from a MS. in his copy of Douglas's Reports :

" 'The real history of this case, as remembered by Mr. Sergeant Walker, Mr. Filmer (who has a full note), and Mr. Rudd, is very different from what was stated by Mr. Justice Buller, and given in the note to *Penry v. Jones*. Sergeant Hill was to have argued in support of the plea ; but being unprepared, the argument was postponed ; and Mr. Justice Yates contented himself with making a few observations, and expressing his doubts whether the plea could be supported. In the next term, Sergeant Hill having been left in the same uninstructed state, threw down his brief, and refused to argue it, and judgment passed *sub silentio* for the plaintiff.' " ³

¹ See e.g. Owen's *English Law in Wales*, p. 25.

² Douglas Report, 203.

³ Russell's *Practice*, Intro. pp. xxxii.-xxxiii. n.

But, however the practice arose, and whatever the legal position may really have been, it is certain that henceforward numerous cases were proceeded with in England which had their origin in Wales. "The trial at Hereford," said Mr. Justice Heywood in 1821, "is a means of oppression in the hands of a rich plaintiff against a poor defendant." This practice, so generated, was constantly cited as something to the discredit not of the English Courts which invented it, but of the Great Sessions which suffered by it. The evil became so prevalent that an Act (Rice's Act) was passed in 1773—four years after the disastrous decision in *Lloyd v. Jones*—to discourage the practice by limiting the jurisdiction of the English Courts to actions in which £10 or upwards were recovered. By an Act of 1824 the limit was raised to £50.

In a note (2) to the case of *Draper v. Blaney* (1680)¹ it is said that the Statute, 13 George III., c. 51, seems very clearly to recognise the jurisdiction of all the Courts at Westminster to hold and issue mesne process against parties resident in Wales. It is difficult to resist the force of this contention, though it did not satisfy Russell,² who is supported by Tidd's *Practice*,³ which stated that it was a good plea to the jurisdiction of the Court of King's Bench in local actions to say that the cause of action arose in Wales, or in a county palatine, cinque port, or other exempt jurisdiction.

Another device to steal the jurisdiction of the Courts of Great Sessions arose in the eighteenth century. It

¹ 2 Saund. 194. The question was whether a fi. fa. on a judgment in the King's Bench ran into Wales. As the judges were divided nothing further was done.

² Intro. xxxii. n.

³ Tidd's *Practice*, pp. 632-3.

was to remove an action which had been started in the Welsh Courts to the nearest English county by the prerogative writ of *certiorari*. Lord Mansfield defended the practice in cases where it was feared that an impartial trial could not be had in Wales ; but writs of *certiorari* were sued out and granted without notice to the other party and without inquiry. The evidence given before the Select Committee of 1817 clearly showed that the sole reason for suing out *certiorari* was to delay the progress of the action. Certain of the Welsh judges refused consistently to recognise the validity of *certiorari* and ignored their existence ; but in some of the Welsh Circuits the frequency with which these writs were granted became a formidable embarrassment to the administration of justice.

The Court of Great Sessions was not, however, blameless in its relations with inferior courts. There were three ways by which an action could be removed from an inferior court to the Great Sessions : (1) by a writ of *certiorari*, if the inferior court was a Court of Record ; (2) by a writ of *recordari facias loquelam*, when the cause depended in the Sheriff's Court, whereby the Sheriff was commanded to record the plaint in his full County Court for the purpose of bringing it up before the Court of Great Sessions ; and (3) by a writ of *accedas ad curiam*, when the causes depended in a Lord's Court, whereby the Sheriff is commanded to go to the Lord's Court, and cause the plaint to be recorded for the purpose of bringing it up to the superior court.¹

The power to remove cases, when they were ready for trial, from the inferior courts to the Great Sessions,

¹ Vaughan's *Practica Walliae*, pp. 29, 30, 32, 33 sq. ; Russell, c. xv.

was abused at an early date.¹ It was enacted by 21 James I., c. 23, that no writ, other than writs of error or attain, sued forth out of the Court of Great Sessions to stay or remove any action commenced or depending in any Court of Record described in the Act, shall be received or allowed by the steward, judge, or officer of the Court to whom such writ shall be directed and delivered, or prevent his proceeding in the cause, unless such writ should be delivered to him before issue or demurrer joined in such cause, so as the said issue or demurrer be not joined within six weeks next after the arrest or appearance of the defendant to such action.² Another grievance was that actions removed from an inferior Court of Record to the Courts of Great Sessions, and by those Courts remanded to the inferior jurisdiction, were oftentimes again removed from such inferior court to the Great Sessions. It was therefore enacted by Sec. 3 of the same Statute that, if an action, having been removed to the Great Sessions from such inferior court, shall by any writ be remanded, it shall never afterwards be removed or stayed, before judgment, by any writ whatsoever from the Court of Great Sessions. Sec. 4 enacted that if in any cause, not concerning freehold, or inheritance, or title of land, lease, or rent, it shall appear or be laid in the declaration that the debt, damages, or things demanded, do not amount to or exceed the sum of £5, then such cause shall not be stayed, or removed by any writ or writs whatsoever, other than writs of error or attain.

¹ The superior court did not take the cause where the record left off, but began the proceedings *de novo* (*Gunn v. MacHenry*, 1 Wils. 277; *Turner v. Bean*, Barnes, 345).

² Sec. 2.

By 12 George I., c. 29, sec. 3, it was enacted that this should be so, although there might be other actions against the defendant wherein the plaintiff's demand might exceed the sum of £5.

19 George III., c. 70, forbade the defendant, except on giving sufficient security, to remove any action under £10, and 51 George III., c. 124, sec. 4 (which, however, was only a temporary Act), increased the sum to £15.

It should not be forgotten, however, that the Great Sessions had still the concurrent jurisdiction in actions under 40s. which was conferred upon it by Sec. 34 of the Act of 1542.¹

After the abolition of the Council of the Marches in 1689, the position of the Courts of Great Sessions became more and more precarious. They continued to be popular in Wales, and their friends made continual efforts to meet legitimate criticisms by endeavouring to remedy their worst defects.² The three most important of these amending statutes were 13 George III., c. 51, which is sometimes denominated "Rice's Act"³ and at other times "the Welsh Judicature Act," 33 George III., c. 68 and 5 George IV., c. 106.

Rice's Act was passed after the disastrous decision in *Lloyd v. Jones* (1769), which has already been referred to, and which threatened to undermine the whole foundation of the Great Sessions. It recited that "it hath been the practice to commence trifling and vexatious

¹ The Courts at Westminster were expressly forbidden by 6 Edward I., c. 8, from entertaining a suit where the sum claimed was under 40s.

² A full list of these reforming statutes will be found in the writer's article on the Court of Great Sessions which appeared in the 26th volume of the *Cymmrodor* (1916).

³ So called after its sponsor, the Hon. George Rice, M.P., afterwards Lord Dynevor.

suits in the Courts of Westminster upon causes of action arising within the said Dominion of Wales, in order that the same may be tried in the nearest adjoining English county to that part of Wales in which the cause has arisen," and then went on to enact that "in case the plaintiff in any action upon the case for words, action, or debt, trespass on the case, assault and battery, or other personal action, where the cause of such action shall arise within the Dominion of Wales, and which shall be tried at the Assizes, at the nearest English county to that part of Wales in which the cause of action shall be laid to arise, shall not recover by verdict a debt or damages . . . of £10," if the judge certifies that the defendant was resident in Wales, a non-suit shall be entered with costs against the plaintiff, unless the judge certifies that the freehold or title of the land mentioned in the plaintiff's declaration was chiefly in question, or that the cause was proper to be tried in such English county. A similar provision with regard to transitory actions arising in Wales and tried in England empowers the Court to non-suit the plaintiff if the debt or damages found by the jury did not amount to £10.¹

By Sec. 15 it was sought to avoid some of the mischiefs that inevitably arose from the fact that the Courts only sat for two weeks in the year. It recited that "whereas all writs relating to actions depending in the Courts of Great Sessions are returnable at the Great Session held respectively for the said counties, and at no other time, by which means no action that is commenced (except where the defendant voluntarily appears) can be brought to issue and tried before the second Session

¹ Sec. 2.

after such action is commenced at the soonest, which is usually near a year, and a great delay to the suitors of the said Courts . . . it enacts that all original writs, bills, and all mesne process whatsoever . . . shall and may be made returnable before His Majesty's Justices . . . on the first Wednesday in any month in each of the two vacations annually between the two Sessions, or on the first day of the next Sessions, at the election of the plaintiff."

The defendant had to enter appearance on the day of such return, or within fourteen days next after ; and in case of neglect in "bailable actions," the Sheriff should, at the request and costs of the plaintiff, assign to the plaintiff the bail bond taken for the defendant's appearance. On the defendant appearing, the plaintiff should proceed to file his declaration, and the defendant, in case the declaration was delivered seven days before the first day of the Session, should be bound to plead thereto, before the rising of the second Court.

Sec. 17 conferred upon the Great Sessions the power hitherto enjoyed by the Courts of Westminster alone, of trying actions for a penalty, provided the offence was committed and the defendant was triable and resident in Wales.

The Act of 33 George III., c. 68, was passed to "remedy certain inconveniences attending certain proceedings" in the Court of Great Sessions. One of the difficulties experienced in the administration of justice in Wales was the practice of defendants, against whom judgment had been obtained, to remove their persons and effects from the jurisdiction. To remedy this, the Westminster Courts were empowered to issue writs of execution against such persons.

The effect of this enactment was to modify the practice of the Court in another respect. Formerly, when the plaintiff lived outside the jurisdiction, he was required to give security for costs.¹ It would appear that after this statute such security was not required, and a rule was refused by Mr. Justice Heywood in *Evans v. Morgan* under such circumstances.²

In 1824 (5 George IV., c. 106) the last effort was made to reform the practice and procedure of the Courts of Great Sessions. The statute was a courageous attempt to remedy the defects referred to in the Report of the Select Committee as calling "for regulation and amendment." The points more particularly mentioned by the Committee were :

(a) The long period of the year during which recoveries cannot be suffered, or fines levied ; and the magnitude and uncertainty of the expense attending them.

(b) The inability of the Courts to compel the attendance of witnesses residing out of their jurisdiction.

(c) The necessity of moving for a new trial before the same judges, within a few hours after they have given misdirection to the jury, upon which the application is founded.

(d) The want of sufficient security for the funds directed to be paid into Court, that security depending entirely on the personal solvency of the officers.

(e) The necessity of the judges and counsel remaining the same time at each place of their Circuit, whether there may or may not be sufficient business to occupy them.

Of these six defects in the Welsh procedure, no less than five were dealt with by the Act of 1824. The only

¹ Foley's *Practice*, 67.

² Russell's *Practice*, 226.

matter which the Legislature did not alter was the fixed time of six days during which the Sessions must be held. But even in this regard it strove to remove the grievances of suitors. Russell, in his evidence, dwelt on the expedition with which cases were tried in the Welsh Courts. "A party may obtain the whole object of his legal proceedings in three weeks or a month." But there were two main objections to this expeditious procedure. One was mentioned by Mr. Justice Moysey of the Brecknock Circuit. "If the people of Wales," he said, "who get themselves involved in law-suits had time to breathe, and the heat of their litigation to subside, they would make up their causes long before they came to trial."¹ The other objection was mentioned by Goodman Roberts, attorney of Ruthin, who stated that "the time for getting up the case during the Sessions is too short, though the parties themselves are generally satisfied by the rapidity with which justice is administered." It was sought to remedy these defects by allowing pleadings to be delivered in the vacation,² by empowering the Courts to take the evidence of witnesses on commission,³ and by authorising the justices in any county on their Circuit to make any rules and orders in any suits within their jurisdiction, and not merely in the county where the cause of action had arisen,⁴ and to hear motions and petitions in the vacation.⁵ The value of these provisions was ridiculed by Lord Cawdor in his Letter. He was certainly right

¹ Palmer, of the Carnarvon Circuit, expressly disagreed with this view, and stated that compromises were frequent. See also the address already cited of the Grand Jury of Anglesea. It should be remembered also that at least one half of the actions in *Concessit Solvere* never came to trial.

² Sec. 8.

³ Sec. 9.

⁴ Sec. 11.

⁵ Sec. 12.

in his reference to the difficulty of hearing motions, etc., in vacation. One of the Carmarthen judges lived in Derbyshire; the other in London. It would be somewhat difficult to bring them together, and there was no power to compel them to make a Court. His somewhat clumsy ridicule of the other remedies is not convincing. The amendments must have sensibly relieved both the tension of work during the Sessions week, and it gave suitors time to consider their position before their cases came to trial. There is no doubt that in the purely rural counties a week was then, as now, more than sufficient for the work, especially when it is remembered that two Courts sat to try jury actions; but the Legislature thought, and rightly thought, that it was more urgent to remove the well-founded grievances of suitors than to effect a comparatively small economy in public expenditure.

In other respects the Act of 1824 dealt directly and specifically with the evils complained of.

(a) *Fines and Recoveries*.—The evidence clearly supported the finding of the Select Committee as to the length of time sometimes required to suffer recoveries and levy fines, as well as the magnitude and uncertainty of the expense. But here, again, the evidence was conflicting. Mr. Justice Burton admitted that recoveries could not be suffered except during the Sessions, *i.e.* twice a year. But he added, "no more than they can in England, except during the four terms." He was constrained, however, to acknowledge that "it would possibly be an improvement if recoveries were allowed to be suffered at other periods before either of the Justices in any place." Rees Goring Thomas, the "compounder" of Carmarthen, stated that the expense of

levying a fine in South Wales was double that in North Wales, while recoveries cost 1s. 4d., *ad valorem*, in South Wales as against 1s. in North Wales. He went on to say that the expense was considerably larger in South Wales than in England, where the charge was so much per messuage and not so much per acre. It was mentioned that a recovery which cost only a few pounds in Westminster might cost hundreds of pounds in Wales.

Sec. 24 of the Act of 1824 enacted that "the fees to be paid on any fine or recovery . . . and the amount of the King's Silver to be paid thereon shall be in the same proportion and ascertained and calculated in the same manner by the proper officer" as in England, and "shall not exceed the same." Sec. 26 directed that fines should be levied four times a year after the manner and on the dates mentioned in the section. Sec. 28 authorised any person entitled to take affidavits as a Commissioner of the Common Law Courts or a Master Extraordinary of the Court of Chancery to take any affidavit of any matter arising or fines and recoveries levied or suffered in the Courts of Great Sessions, in the same manner as was done in England.

In this way the peculiar grievance of Wales was swept away. But in any event the cumbrous and expensive system of fines and recoveries was hastening to its close. Brougham indignantly inveighed against it in his speech on Feb. 7, 1828.

"Every gentleman knows that if he has an estate in fee he can sell it, or bestow it in any way he may please, but if he has an estate tail, to which he succeeds in the long vacation, he can go, on the first day of Michaelmas term, and levy a fine, which destroys the

expectant rights of the issue in tail ; or he may, by means of a recovery, get rid of those rights and all remainder over. . . . But this must be done through the Court of Common Pleas at certain seasons of the year. And why should there exist a necessity of going there ? Why not, if it be necessary, pay the fines which are due without going there at all ? Why force tenants in tail into court for form's sake ? ”

In the reign of William IV., within a few years after the abolition of the Courts of Great Sessions, fines and recoveries were done away with.

(b) The inability of the Courts to compel a witness who lived outside the jurisdiction to attend the trial was a serious defect, though it is likely that in actual practice the inconvenience was not very great. Mr. Justice Burton stated that he had never had to try the experiment, and had never known any practical inconvenience resulting from this want of power. Oldnall Russell, though he denied the existence of any “ disadvantages,” agreed that there should be some means of compelling the attendance of a witness resident in England.

In order to remedy this state of things, Sec. 1 enacted that on application by one of the parties to the Court of Exchequer at Westminster, supported by a proper affidavit, a writ of *subpoena ad testificandum* or *subpoena duces tecum* would issue, directed to such witness, whether resident in England or that part of Wales outside the jurisdiction of the particular court where the cause was being tried.

(c) The evidence given before the Select Committee was not very strong with regard to the alleged inconvenience resulting from the necessity of applying to the

Justices who had heard the case for a new trial. Indeed, the experience of our modern County Courts, where a similar practice prevails, is confirmatory of the statement made by Benyon, the Attorney-General for the Chester Circuit, that no such inconvenience was in practice experienced. Oldnall Russell stated quite truly that the motion for a new trial made before the same tribunal, which already knew the facts on which the verdict was given, made for expedition, "though," he added, "another tribunal, if practicable, would be better." Christopher Temple gave the only damaging evidence against the practice when he said that he had "never known a new trial granted in any of the three Welsh places with which I am acquainted" (viz. Flint, Denbigh, and Montgomery). His suggestion that the motion for a new trial should be heard by four Welsh Judges in London, including the Judge who tried the case, was not accepted. Sec. 2 of the 1824 Act enacted that the Courts of King's Bench, Common Pleas, and Exchequer sitting *in banco* should have power, after hearing the parties, to order a new trial or to enter judgment for either party or to enter a non-suit, as the case might be. Even Lord Cawdor, in his Letter, pays a grudging tribute to the efficacy of this provision.

(d) The complaint that a person paying a sum of money into Court had no security except the personal solvency of the officers of the Court was well founded. No witness who gave evidence before the Select Committee endeavoured to defend the existing state of things. Temple said that "we have no officer of the Court with whom money can be safely lodged." Two remedies were proposed in 1824. One was that the Justices should have full power to dismiss all officers "for

peculation, extortion, or other misconduct," unless such officer had been appointed by the Crown.¹ The following section empowered the Justices to "have and take from any officer of the Court within three calendar months after his appointment and as often after as occasion may require, such security as to such Justices shall seem proper for and concerning the accounting for all and every sum which such officer shall receive in any cause." By Sec. 18 the Justices were authorised to "order and direct any sum of money belonging to the suitors to be paid into the Bank of England, in the name and with the privity of the Accountant-General of His Majesty's Court of Exchequer at Westminster."

Lord Cawdor made play with the fact that by 1828 not a penny had been so paid into the Bank of England, but he does not mention what had been done under Sec. 17, and his silence as to this is significant.

There was one other defect in the jurisdiction of the Welsh Courts which needs some attention in connection with the Act of 1824, though it has already been referred to.² That was the iniquitous practice, which had grown up in the latter years of the eighteenth century, for the Westminster Courts to remove actions commenced in the Courts of Great Sessions to the nearest English county by the prerogative writ of *certiorari*. The practice with regard to *certiorari* varied on different Circuits. According to Mr. Justice Burton it was almost unknown—or at least it was never countenanced—on the Chester Circuit. He said: "Although there is a maxim that the King's writ does not run into Wales, yet this rule is not without exceptions. Prerogative writs are those exceptions, and it has been laid down

¹ Sec. 16.

² *Supra*, p. 94.

more than once by Lord Mansfield and the Court of King's Bench that a *certiorari* might be granted upon motion in court on proof of a sufficient cause, such, for instance, as that an impartial trial could not reasonably be expected in the Welsh county. There is a case upon this subject in Douglas's Reports. In point of practice I do not immediately recollect any cause so removed from our Circuit, though I do remember some improper attempts to remove causes upon *certiorari* unduly obtained, which we thought it our duty to disregard."

Temple's recollection concurred with that of the Judge. He stated that he had never known of any case being removed from the Chester Circuit by *certiorari*. "I have known," he added, "a *certiorari* tendered to the Judges, but they have themselves had a concurrent jurisdiction in all civil matters with the Judges at Westminster Hall." He went on to give an instance in point in an action brought by Sir Watkin Williams Wynn against one Hughes, where Mr. Justice Burton refused, citing the authority of Lord Kenyon, who had been Chief Justice of Chester, to receive a *certiorari*.

But what the Chief Justice of Chester, who may be termed the head of the Welsh Judiciary, was able and ready to do was not possible on some of the other Circuits. Mr. Justice Heywood, of the Carmarthen Circuit, stated that on one Circuit twenty-six causes were taken away by *certiorari*, most or all of which might have been tried in their course. The motions were always made for the purposes of delay.

"I never remember an instance of its being moved on the ground that the party was not likely to have a

fair trial at the Great Sessions.¹ The defendant knows that if the verdict is likely to go against him by the judgment of the Sessions, execution would follow immediately, and thereupon he removes the cause into the King's Bench, which would give him six or eight months' delay. The King's Bench could restrain the abuse; but in fact rules for *certiorari* are obtained without any special showing."

The learned judge did not specify of what Circuit he was speaking, but it is fairly certain that he was not speaking of his own Carmarthen Circuit, which was probably the most important of the purely Welsh Circuits. Charles Morgan, Solicitor and Clerk of the Peace of Carmarthen, stated in his evidence that he had known of only two instances of rules of *certiorari* issuing, and they had been quashed—presumably in the same way as they had been blandly ignored by the judges of the Chester Circuit.

It is difficult to see how the practice arose. Nothing in the Act of 1542 warranted the action of the Courts at Westminster. *Practica Walliae* knew nothing of such a practice in 1672. It was an abuse which grew up in the eighteenth century, when the jealousy and hatred, which the Westminster Courts felt of old towards the Council of the Marches, were transferred to the local Welsh jurisdiction of the Great Sessions. The fact that the Chester Justices were allowed to ignore,

¹ *I.e.* the only cause justifying the grant of *certiorari* mentioned by Lord Mansfield. One case is to be found in the books (*Daniel v. Phillips*, 1792, 4 T.R. 499) where an action for less than 40s. damages was removed by *certiorari* into the King's Bench from the Carmarthen Great Sessions on the ground that the Excise officers who formed one of the parties could not have had an impartial trial in the local court.

and the Carmarthen Justices to quash, the writ is eloquent of the precariousness of the position taken up by the English Courts. But that this power, so obtained, should be exercised "without any special showing," was plainly intolerable. Sec. 23 of the 1824 Act enacted that in future "no writ of *certiorari* shall be granted . . . to remove any action, etc. . . . originated or commenced . . . in the Courts of Great Sessions . . . unless seven days notice in writing (has been given) to the other party . . . and unless the party so applying shall, upon oath, show to the Court in which application shall be made sufficient cause for issuing such writ, and so that the (other) party . . . may have an opportunity to show cause."

Secs. 19-22 dealt with another branch of the same evil. 13 George III., c. 51 (Rice's Act) had attempted to stay the nuisance and scandal of plaintiffs bringing actions against the defendants resident in Wales "in the English county next adjoining," which meant Shropshire and Herefordshire. The practice had been so abused that, as has been seen, in 1773 it was enacted that if a plaintiff recovered less than £10 in a personal action in an English Court while the defendant resided in Wales and the cause of action arose there, he should be non-suited with costs. The Act of 1824 raised the limit from £10 to £50.¹

Lord Cawdor cordially disliked this provision, which had, according to him, the effect of largely increasing the work of the Court of Great Sessions, and of causing much congestion of business.

It became apparent during the latter years of the eighteenth century that the doom of the Court of Great

¹ Sec. 21.

Sessions was sealed. In vain its lovers strove to reform its procedure and to correct its abuses. It was pursued with relentless hostility. Its process was at least as cheap, as speedy, and as effective as that of the Courts at Westminster. Its system of pleading was less subtle, intricate, and technical. It knew nothing of the sordid fictions of the law, which had sprung up in England in the seventeenth and eighteenth centuries, such as the *latitat* of the King's Bench and the *quo minus* of the Exchequer. But, ever since the abolition of its sister Court at Ludlow, it had occupied an anomalous position. In 1780 Burke projected a comprehensive plan of economical reform. One of the five Bills in which his plan was incorporated was one "for the more perfectly uniting to the Crown the Principality of Wales and the County Palatine of Chester, and for the more commodious administration of justice within the same." His original plan was not to abolish but to reform the Welsh jurisdiction, and to reduce the number of judges from eight to three. He modified his plan later on. But his campaign was more one of economy than of legal reform. In 1798 a Select Committee of the House of Commons on the finance of Courts of Justice recommended the "gradual consolidation of the four judicatures of Wales into one Circuit . . . so as to have an additional number of English Judges." Ten years later an additional £3200 a year was granted in salaries to the Welsh Judges. In 1817 the Committee was "persuaded that the present establishment of the Welsh Judicature, notwithstanding some imperfections, has much to recommend it, from the cheapness and expedition with which it administers justice to the inhabitants of the Principality." But the point

of view was changed by 1821, when it reported : " However well adapted these Courts may have been in their origin to the circumstances of a country newly subdued, in which the English language was at that time almost unknown; having little or no means of communication with the seats of justice in England, and liable to all the jealousies inspired by recent enmity, that the lapse of years, and the great changes that have taken place in the condition of Wales, have removed most of, if not all, the reasons on account of which the institution of local jurisdictions were resorted to."

They repeat some of the points made in the previous Report, and they add others. The main defects of the Courts have already been dealt with. The Act of 1824 removed some of the most serious of them. But Lord Cawdor returned to the charge in 1828. The three remaining defects which he emphasised were :

(i) The Welsh Judges had too much to do at some Sessions and too little in others.

It is worthy of note that a similar allegation is made to-day against the Circuit system.

(ii) The Welsh Judges were too highly paid for their work.

But their salaries had been more than doubled in the course of the previous fifty-five years, and if the salaries were too high, the remedy was obvious.

(iii) The cost of the processes in the Welsh Courts was very much in excess of the cost of similar proceedings at Westminster.

The evidence given before the Committee did not support this allegation. The one exception to the rule that Welsh processes were cheaper than English was the cost of levying fines and suffering recoveries, but

that had been put right by the Act of 1824. It should also be noted that Lord Cawdor did not pretend to speak from personal experience of the Courts. He had only the evidence given before the Select Committee to go upon, and that evidence does not bear out his allegation.¹

Lord Chancellor Lyndhurst, who had himself served as Chief Justice of Chester, appointed a Commission² to inquire and report upon the judicial system. It was appointed as the result of a six hours' speech by Brougham on the abuses and defects of the Courts on February 7, 1828. The first Report of the Commissioners dealt chiefly with the Welsh Judicature. It had examined no witnesses, but founded its recommendations on the Reports and evidence of the Select Committee 1817-1821. It recommended the extension of the jurisdiction of

¹ *E.g.* Benyon, Attorney-General for Chester, stated that the equitable jurisdiction was "rather expeditious than otherwise, particularly when I contrast it with what happens in London. The expense of a suit in a Welsh equitable Court was considerably less." Heywood said of the equitable jurisdiction that it was "a cheaper, more convenient, and more satisfactory mode of obtaining the object on account of its being nearer home than the equity Courts in this country." Temple said that the "equitable jurisdiction of the Court is infinitely less expensive than it is in England; its quickness as well as its cheapness are its great recommendations; in some cases the party is able to obtain a decree in one Session, or at all events he is sure of it in the next Session." Freshfield, of Kaye, Freshfield and Kaye, Solicitors to the Bank of England, stated: "I should prefer lending on Welsh security . . . on account of the greater facility of foreclosure. In Wales we get it in the first Session; in England in five or six years." It was universally admitted that for cheapness and expedition it was impossible to surpass the action of *concessit solvere*. The Select Committee reported in 1817 that the Welsh process was cheaper than the English, and the subsequent evidence only served to support that conclusion.

² The Commissioners were Sergeants Bosanquet and H. J. Stephen, E. Hall Alderson, James Parke, and John Patteson.

the superior courts of England to Chester and Wales, the appointment of three additional judges, and the abolition of the Court of Great Sessions.¹

The Government adopted the principal recommendations of the Commissioners. On March 9th, 1830, the Attorney-General, Sir J. Scarlett, moved for leave to bring in "a Bill for the more effectual administration of Justice in England and Wales" embodying the main features of the Commissioners' plan. On the same night the Hon. Rice Trevor, M.P. for Carmarthenshire, presented a petition from the freeholders of the county.² The petition stated that the "Welsh law . . . was in fact the old English law differently, and in some respects better, administered." Sir John Owen, M.P. for Pembrokeshire, presented a petition from between 1800 and 1900 freeholders of the County of Pembroke, and John Jones, M.P. for the Carmarthen Boroughs, a petition from the Sheriff, Magistrates, and Burgesses of Carmarthen and Kidwelly, protesting against the proposal to abolish the Courts of Great Sessions. The Member for Carmarthen made the first of a series of speeches against the Bill. He trusted that no attempt

¹ Some of the proposals made by the Commissioners would never have been made if they had examined witnesses. They overrode all national and local divisions. Wales as a legal entity was to be eliminated. Part of Montgomery was to be attached to the Shrewsbury Court, Denbigh and Flint to Chester, Radnor to Hereford, the Glamorgan Assizes were to be taken from Cardiff and held at Neath, and South Wales was to be added to the Oxford Circuit. Fortunately the Government refused to accept these suggestions.

² Very interesting reports of meetings held in Carmarthen and Pembroke in 1820 are given in the first volume of the *Cambro-Briton* (pp. 396 and 439), which show that while Welshmen were fully alive to the defects of the Courts of Great Sessions, they desired and demanded their reform and not their abolition.

would be made, as had been threatened, to hurry the Bill through the House before Easter. He looked upon the proposed plan as an untried experiment, of which the good was doubtful, and before it was carried into execution, he wished that the Bill should be printed and circulated in Wales for at least a twelvemonth. The Welsh had not complained of the present system. It had been said that whether the Welsh liked the measure or not they would have to swallow it. He complained that the nature of the Bill had been kept as secret from those it was to affect as if it were a State mystery. Col. Powell, M.P., presented another similar petition from Cardiganshire.

The motion of the Attorney-General to bring in the Bill was opposed by O'Connell as the Bill would be useless to the public, and by Sir J. Owen, M.P. for Pembrokeshire. John Jones made another strong speech against the measure. "It is hard," he said, "that the interests of Wales should be made the ladder by which ambitious barristers are to climb to such preferment as three additional seats on the Bench. It is admitted on all hands that the Welsh are attached to their present institutions. . . . All the petitions except one are against the measure." After a brief and perfunctory debate, the motion was agreed to without a division, and the Bill was read a first time."¹

The second reading was taken on April 27th. Frankland Lewis, M.P. for Radnorshire, and Col. Wood, M.P. for Breconshire, criticised the Bill. The Member for Carmarthen made another outspoken attack. He accused the Commissioners of being completely ignorant of Wales and its inhabitants; he complained of the

¹ *Hansard* (2nd series) *Par. Deb.* vol. xxiii. col. 54.

unfair treatment of him and other Welshmen who had assisted them; two of the Commissioners were Sergeants-at-Law, and were therefore prejudiced;¹ last year £13,000 had been recovered in the Carmarthen Great Sessions at a cost of £5, and he again insisted that there was no demand for the Bill in Wales. C. W. Wynn, M.P. for Montgomery, was the only Welsh Member who spoke for the Bill. The Hon. Rice Trevor urged that the Bill would entail great additional expense on Welsh suitors. After a short reply from the Attorney-General, the Bill was read a second time without a division.

The Bill passed speedily through Committee, but was recommitted on June 18th. On the same date J. Jones presented a petition against the abolition of the Welsh Courts, from Welshmen residing in and near London. He pointed out that in England it was not worth while to sue for less than £50; in Wales there was seldom a claim over that amount, while the costs were only £1. Again, sham pleas were unknown in Wales, because all the pleadings were regulated by the Justices, and every plea had to be verified on oath. Harvey, M.P., seconded. On July 2nd, the Bill went through Committee, and on July 17th it was read a third time. It passed through the House of Lords in spite of the objection of Lord Eldon, and in due course it became law. The preamble of 1 Will. IV., c. 70, does not disguise the object of the enactment:

“Whereas the appointment of an additional Judge to each of His Majesty’s Courts of Common Law would

¹ Because the Sergeants had no monopoly of promotion to the judicial bench in Wales as they had in England. It is curious that four out of the five Commissioners were subsequently promoted to the Bench.

cause much greater facility and despatch of business therein: and whereas it is expedient to put an end to the separate jurisdiction for the County Palatine of Chester and the Principality of Wales."

The Welsh Judicature fell a victim, not to its own defects, which were being gradually remedied, but to the desire of English lawyers to have three additional judges on the High Court Bench. Can anyone read Brougham's famous speech and contemplate without apprehension the substitution of the system which he so unsparingly condemned for the Welsh system with all its drawbacks? Additional judges were no doubt necessary for England, and fewer judges could do the work satisfactorily in Wales with a better arrangement of terms. Brougham asked for two additional judges, for he said that "the Judges of the Court of Exchequer do not sit for more than half an hour some mornings and there are hardly ever on the paper more than 6 or 7 causes for trial after term. A dozen would be considered a large entry." But the English Bar demanded an additional judge for each of the Westminster Courts, and they got them at the expense of the Welsh Judicature. Oldnall Russell had replied to the demand in advance.

"It is said that a benefit would be derived to the public from the services of the two or three English judges, whom it would be necessary to appoint. . . . But it may be doubted whether considerations of this kind can properly be brought to bear upon the question. . . . It does not seem too much to assume that the present inquiry should be made principally, if not entirely, with a reference to benefits and advantages to be derived to the people of Wales, to whose suit

English laws and the Courts of Great Sessions were conceded, and amongst whose rights and privileges the jurisdiction of these courts, according to their present establishment, must be enumerated.”¹

The Courts of Great Sessions were, however, abolished in 1830, and the English Circuit system took its place. Wales and Cheshire were formed into two Circuits, the North Wales and Chester Circuit, and the South Wales and Chester Circuit. The change was opposed by all the Welsh Members of Parliament, with one exception. It was protested against by the vast majority of judges, counsel, attorneys, and suitors who were called upon to give evidence; with one exception every petition presented to Parliament was adverse to the proposed abolition of the Courts. During the last eighty years Wales, from being a poor and sparsely populated country, has become rich and populous. The introduction of County Courts in 1846, the various Summary Jurisdiction Acts, and the Judicature Act of 1873 have effected great and vital reforms in our system of administering justice. It is therefore true to say to-day that Wales does not suffer more than other parts of the country from the defects of the English judicial system. But the economic, industrial and juridical revolution which has taken place during the last two generations should not blind us to the real nature of the danger so recklessly incurred in 1830. They have been admirably summed up by a modern historian who is also a lawyer.²

“For some years the Act inflicted considerable

¹ Russell's *Practice*, Intro. p. xxxvi.

² Sir D. Brynmor-Jones, K.C., in Rhys and Jones's *The Welsh People*, at pp. 391-2.

hardship on Welsh suitors. There being no County Courts on the modern basis till the Act of 1846 had passed, and the local courts having only jurisdiction up to 40s.,¹ it was necessary to bring an action in London even to recover trivial debts, and as the local equitable jurisdiction had been determined, the administration of the smallest estate had to be effected through the medium of the Court of Chancery. The proceedings, too, in an action commenced in a Superior Court and tried at a Welsh Assize, were much more dilatory and expensive than those in a suit of the same kind in the Great Sessions. Again, though the Welsh Justices were not the equals of the English Justices in status at the Bar, or, as a rule, in legal attainments, they came in a little time after their appointments into close touch with the people and generally secured their confidence. For many years the want of sympathy of the English Judges going the Welsh Circuits, their ill-concealed assumption that Welshmen were beings inferior to Englishmen, their apparent total inability to understand that a man who could speak a few words of a foreign language in a market place or society might decline to give evidence in it in a Court of Justice and yet be an honest man, produced very often great popular (though in those days not overt) indignation, and sometimes grave miscarriage of justice. The establishment of the modern County Courts, and the gentler and more tactful treatment of Welsh witnesses by the Judges of the High Court during recent years, have done much to remove any grievances special to the people of Wales in regard to the administration of justice."

¹ But see 12 George I., c. 29, and 19 George III., c. 70, and 51 George III., s. 124.

It might be added that in 1830 the practice of the English Courts was unreformed. The terrors of "mesne process" so vividly described by Brougham were still present; arrest and outlawry still threatened the defendant; all manner of stupid legal fictions prevailed; the system of pleading and procedure was overrun with technicalities. When the old system of the Welsh Courts, so cheap and expeditious, is remembered, it may be doubted if Wales would not have fared better if her historical Judicature had been reformed of its defects, instead of being abolished in order that a more cumbrous, costly and technical system might take its place. The simplification of pleading and procedure during the last forty-two years has been a notable feature of legal reform, but the attempt made in 1873 to amalgamate law and equity has largely failed, and even the procedure in our commercial courts, direct and non-technical as it is, falls short of the sweet simplicity of the old *Concessit Solvere*.

CHAPTER V

THE REFORMATION

IT is a commonplace of history that the Reformation was not welcomed in Wales. Thomas Cromwell, it is true, found ready agents among Welsh lawyers and clergy to do his iconoclastic work, but the people looked on in sullen anger while the image of Dervel Gadarn was sacrilegiously torn from its shrine,¹ and the altar of Dewi Sant was stripped for the benefit of a renegade bishop.² Chapuys, the Imperial Ambassador at the Court of Henry VIII., constantly refers to the Principality as being passionately loyal to the old faith,³ and Catholic plotters for two generations invariably took into account, in estimating their chances of success,

¹ *State Papers*, Henry VIII. (1538), vol. xiii. pt. i. Nos. 649, 863-4; Ellis's *Orig. Letters*, 1st series, ii. 82; 3rd series, iii. 194; *Arch. Camb.* 4th series, v. 152.

² *Ibid.* vol. xiii. pt. i. No. 634; Wright's *Suppression of the Monasteries* (Camd. Society), 190, 77, 183, 186, 206, and 187; and also Edward Owen's *Catalogue of Welsh MSS. in British Museum*, 105a and b; 140, and 167 (A.D. 1611).

³ "As to the indisposition of the people of Wales, of which mention is made . . . I understand they are very angry at the ill-treatment of the Queen (Catherine) and Princess (Mary) and also at what is done against the faith, for they have always been good Christians" (*State Papers*, Henry VIII., Nov. 3rd, 1533, vol. vii. No. 1368).

the unswerving devotion of Welshmen to the See of Rome.¹

Relics of ancient Catholic practices and beliefs have survived to our own days. Mari Lwyd still cheers the winter nights of rural Wales, though few know that it represents the mystery play of "Holy Mary." Children, the truest conservatives, even yet make the sign of the cross when seeking to avert an evil omen or taking upon themselves a binding oath. The "gwynnos" survives, in Puritan setting, to mark the permanence in the human heart of that pathetic care for the departed which gave rise in ancient times to the practice of saying masses for the dead. The beautiful custom of strewing flowers on the graves of friends and relatives on "Sul y Blodau" testifies to the abiding, if unconscious, influence of Catholicism on the faith and practices of Welshmen. These are small matters, it may be, but that they have survived at all, after two centuries and more of the sternest and straitest Puritan discipline, is surely significant of the strong hold which the old faith had taken on the Welsh people.²

Extreme Protestants as Welshmen have now become, it is beyond question that, up to the great Rebellion,

¹ *Vide*, for example, Parsons' letter to the Cardinal of Como in 1581, where he suggests that Dr. Owen Lewis should be sent to raise Wales, because of his influence "with his countrymen the Welsh, who can be of much service in this affair, and will desire to help from the great affection which they bear to the Catholic faith; and when the army has reached England, then Dr. Owen might be sent to Wales with the great lords of that country, who already favour us, to help in raising the people of those parts" (S.P.O., "Roman Transcripts," vol. xv. No. 477). Cf. also *Acts of the Privy Council*, vol. xiii. p. 428.

² Cf. *Life and Letters of Laud*; Erasmus Saunders, *View of the State of Religion in St. David's* (1721); Strype's *Eccles. Memorials*, ii. 357; J. Lewis (Glasgrug), *Contemplation of these Times*,

Wales was the most Catholic portion of Great Britain. The whole of Wales only produced three Protestant martyrs in the reign of Mary.¹ The mass of the people were indisposed to accept the new-fangled doctrines either of Wittenberg or of Geneva. "The Welsh counties tell (the Earl of) Pembroke," wrote the Duke de Feria to his master, Philip of Spain, in the first year of Elizabeth, "to send no preachers across the marches, or they will not return alive."² John Penry, the prototype of the strenuous Welsh Nonconformist, was brought up on the hillsides of Eppynt in the Catholic religion, and it was only after he had gone to Cambridge that he came under the influence of Protestantism.³

Catholicism stood for more than the old religion ; it stood also for Welsh nationality. Protestantism was an alien plant, fostered by English or Anglicised officials. Men looked back to pre-Reformation days as a time when Wales was not a mere part of England, when the Welsh language was not tabooed in the courts, and when Welsh laws and customs were still observed.⁴ All that

¹ Rees's *History of Protestant Nonconformity in Wales*, p. 3. Only one, however, Bishop Ferrar, seems to have been of Welsh blood.

² Simancas MSS., quoted by Froude, *Hist. of England*, vol. vi. 190.

³ Born 1559. *Vide* Rees's *History of Protestant Nonconformity in Wales*, p. 20. In 1569 the Spanish Ambassador said that Wales was "for the most part mainly Catholic" (*S.P., Spanish*, ii. 147). See also Owen's *Welsh MSS. in the Brit. Mus.* i. 72.

⁴ "The distress of the people is incredible, and the anxiety they have to declare themselves, especially the Welsh, from whom by Act of Parliament the King has just taken away their native laws, customs, and privileges, which is the very thing they can endure least patiently" (Chapuys, Dec. 19th, 1534 ; *State Papers*, Henry VIII., vol. vii. 1554). Cf. the petition sent to the Privy Council in 1558 "on the behalf of the inhabitants of Wales and the County Pellentyne of Chester for their auntient libertyes and customes to be allowed," in *Acts of the Privy Council*, vii. 64-5.

was best and noblest in Welsh story was intertwined with the history of the roofless abbeys, which remain to this day monuments of Welsh piety and art. Strata Florida and Aberconway, in their ruins, still testified to the dream of Welsh independence which had inspired the waking thoughts, and directed the policy, of the princes who sleep in peace in their solitude; Valle Crucis and Tintern embodied in their deathless beauty the finest and most spiritual aspirations of the Cymry; Carmarthen and Talley had given refuge and solace to the greatest Welsh bards, when stricken with age and poverty; Margam and Neath, Basingwerk, Cymmer, and Strata Marcella—every monastery was a museum stored with priceless treasures of Welsh poetry and romance.¹ Each parish church, called after a native saint who had no place or meaning in the Protestant economy, led the Welsh mind, with its insistence on the living influence of the past, back to the earliest dawn of Christian civilisation in the land.² Everywhere within

¹ See *e.g.* *Hen Gwndidau*, by Hopcyn and Cadrawd, which teems with allusions to the loss sustained by the bards through the destruction of the monasteries. Lleision Cradoc bewails the destruction of Margam Abbey in the following striking stanzas (pp. xx. xxi.):

Margam, gwae in am ergyd -a gavas
 Mae gofal yn aethlyd,
 Doe bu myned a'i bywyd.
 —Diffodd gardd y ffydd i gyd.
 I'ble 'dda Bardd hardd ei hirddysg -bellach
 E ballawdd nawdd i'n mysg.
 Trwm ar ein iaith ywr trymysg,
 Trais rhyfedd a diwedd dysg !

² Cf. Griffith Roberts's preface to *y Drych Cristionogawl* (1585) : " Mae'n rhaid i'r gwledydd eraill enwi y rhann fwayaf o'r Heglwysi ar henw un o'r Postolion neu Saint ereill, ny bythont yn perthyn idd eu gwlad nhyw; ond drwy holl Gymry ni cheir nemor o eglwys ond ar enw saint y wlad."

sound of the monastic bell there had reigned peace and contentment.¹ The Church had given free education to the brightest sons of the poor, it had dispensed its kindly charity in the homes of the aged. There was no need for free schools, or for the workhouse—that hideous creation of Protestant charity. The abbey and glebe lands were well tilled by tenants who held on easy terms. Divided though Welshmen were, and fierce as had been their provincial jealousies, they had all united in one common worship, and Dewi Sant was in very truth the Patron of Wales, the one common pride and common heritage of the whole race.

Yn Nyffryn Clwyd nid oes
Dim ond darn bach o'r groes
Oedd gynt yn golofn ar las fedd ;

but that fragment of the cross served to remind generations of Welshmen of the link which bound them to their historic past.

With the Reformation came strange doctrines and strange laws. Gone were the kindly landlords of the monastery, and in their place stood needy adventurers, unmindful of the past and uncertain of the future, only

¹ How far this aspect of Catholicism appealed—and still appeals—to the Welsh mind, finds a curious illustration in the lines which Glasynys, one of the most typical Cymric poets of the last century, wrote in his beautiful *Llyn y Morwynion* :

Mynachlog neu ysbytty, mor swynol sw'n dy gloch !
Mae'n seinio dros y cymoedd 'yn iach, yn iach y boch'
Mor hyfryd i'r pererin ar ol ei ludded maith
Fydd clywed clir wahoddiad hon i orffwys ar ei daith ;
Ceiff yma gartref tawel ; a phawb fydd yma'n frawd
Yn ceisio dysgu'r naill y llall i wrthladd byd a'r cnawd,
Yr oriau gedwir yma i ymbil am y rhad,
A gluda'r egwan, cr mor llesg, i dawl dy ei Dad.
Ty gweddi,—ty elusen—ty cariad,—cennad Ior—
Na foed i'r aberth bythol inwy gael gwawd o fewn dy gor !

anxious to make the most of the present. Gone was the free education given by the religious houses, and it was only inadequately replaced by that of new and meagrely endowed grammar schools, called after Edward VI. and Elizabeth. Gone, too, was that perfect organisation which gave a priest to every parish; for generations, and even centuries, clerical pluralists devoured the substance of the Church, while "the hungry sheep looked up, and were not fed."¹ Nor could the married clergy, with heavy domestic claims on attenuated incomes, afford to distribute alms with the bounteous generosity of the old priests. Churchwardens came to be elected to look after the poor; and when compulsory almsgiving in church had failed of its purpose, the Parliament of Elizabeth added the Poor-Rate and the Poorhouse to our national institutions. With the political change which turned the old Welsh chiefs into modern English landlords, and drove the ancient tongue of Wales out of court and hall, came the religious change which transformed Dervel Gadarn into a Philistine Dagon, and Dewi Sant into a fable of the priests or an object of idolatrous worship.

No one who knows Wales and Welshmen will be surprised that such a violent revolution was strongly, if tacitly, resented. The Anglicised gentry and inter-

¹ Rees's *Protest. Nonconformity in Wales*, p. 5; John Penry's *Exhortation*, p. 31; Walker's *Sufferings of the Clergy*, pt. ii. Cf. Erasmus Saunders (*Dedication of View of the State of Religion in the Diocese of St. David's*, p. 6): "It will be a spectacle still more moving, to see as it were the whole frame of our religion sinking, to see many parishes without churches, many churches without pastors, and many pastors without a maintenance." *Vide also ib.* pp. 53 seq. Saunders, of course, refers to the state of the Established Church in the early years of the eighteenth century.

ested officials might accede to, though even they did not welcome, the change ; but the people silently clung to the old faith, and although with each succeeding generation their knowledge of Catholic doctrine and practice grew less,¹ in heart and soul they remained, until the Puritan movement stirred the profoundest emotions of their nature, loyal to the ancient faith of their forefathers. It is strange that, while this fact is clearly recognised by historians, no attempt should have been made hitherto to trace the efforts of Welsh Catholics to keep alive the flame on the altar. The reason for this omission is, perhaps, not far to seek. Welshmen, under the influence of Protestantism, have been more concerned to discover the origin and to trace the development of Puritanism, than to ascertain the stages in the decay of Catholicism in Wales. Catholic historians, on the other hand, have never, seemingly, been able to appreciate the fact that Wales is as distinct from England as Ireland or Scotland.² The heroic labours of

¹ See, e.g., the description given by Griffith Roberts, in his Introduction to the *Drych Cristionogawl* (1585), of the state of ignorance of the younger generation : "Myfi a glowa fod aml lcoedd yn ghymbry, ie, siroedd cyfan, heb un Cristion ynddynt, yn byw mal anifeilieid, y rhan fwyaf o honynt heb wybod dim oddiwrth ddaioni, ond ei bod yn unig yn dala henw Crist yn ei cof." Cf. Rhosier Smith's dedication of his *Catechism* (1611). See also a curious account given in Baily's *Apophthegms of the Marquis of Worcester* of the life of an old Catholic Welsh woman, who was living near Strata Florida in 1642.

² Though this difference is ignored by modern Catholic historians, it was ever present in the minds of Catholics in the sixteenth century. Cf. e.g., Cardinal Sega's report in 1596, as to the Roman dissensions, where he refers to Dr. Morris as a Welshman, "the native of a country distinct from England, and differing from it in no slight degree as to manners, characteristics, and language" (Foley's *Engl. Jesuits*, vol. vi.). Cf. also "*Causae quare scholares Angli tantum abhorrent a regimine D. Mauricii, et Archidiaconi Cameracensi, qui quaerunt eis dominari*" (1578-9),

Welsh priests in the mission field, the torture and martyrdom of some, the life-long exile of others, have not been put down to the credit of Wales, but have been indiscriminately reckoned as part of the history of English Catholicism. I purpose, in this chapter, to make an attempt to trace for the first time the part which Welshmen played, and the influence they exerted, on what is called the Counter-Reformation.

In the year 1568, ten years after the accession of Elizabeth, there dwelt in the university town of Douay, in Belgium, three old Oxford men, exiles for conscience' sake. Two of them were Welshmen, the third was an Englishman. The oldest of the three was Dr. Morgan Phillips,¹ a native of Monmouthshire, who had earned for himself the title of "Morgan the Sophister" in the halls of Oxford, and who had been Precentor of St. David's Cathedral.² His countryman was Dr. Owen

which is given in the Appendix to the second volume of Dodd's *Church History*, No. lix. But if one wants to have an instance how the industrious learning of a historian can be used unconsciously to pervert the real facts (as to the consequences of racial antagonism of Welsh and English) I commend the reader to Arnold Oskar Meyer's *England and the Catholic Church under Queen Elizabeth* (tr. M'Kee, publ. Kegan Paul, 1916).

¹ Dr. Morgan Phillips matriculated at Oxford in 1533, in 1538 he was elected Fellow of Oriel College, and in 1546 he became Principal of St. Mary's Hall, a post which he filled till 1550, when he resigned. He was, like most of the Welsh Catholics, a zealous supporter of Mary Stuart, and in 1571 wrote a *Defence of the Honour of Mary, Queen of Scotland*, which was published in Douay. For further particulars of his life, see Husenbeth's *English Colleges on the Continent*, Wood's *Athanae Oxoniensis*, and Williams's *Eminent Welshmen*.

² Previous to 1840 the Precentor was head of the Chapter of St. David's. In that year, a Dean was first appointed. (*Vide* Mr. Arthur Price's article on "Wales," in the *Encyclopaedia of the Laws of England*.) Phillips was made Precentor in 1553, but left for Douay on the accession of Elizabeth.

Lewis, the son of an Anglesea squire, who had been educated at Winchester and New College, Oxford.¹ He had resigned his Fellowship soon after the accession of Elizabeth, and in 1561, being then in the twenty-eighth year of his age, he had been appointed Regius Professor of Civil Law at the University of Douay. His learning and scholarship, his conciliatory temper and sane judgment, obtained for him speedy promotion, and in a short time he became Canon of Cambray and Archdeacon of Hainault. The third, whose fame has obscured the achievements of his friends, was Dr. William Allen, the scion of a good Lancashire family, the pupil of "Morgan the Sophister" at Oriel, and sometime Principal of St. Mary's Hall, Oxford.²

The three were fast friends, and we may be certain that they often and anxiously discussed the religious condition of England. By 1568 all hope of the conversion of Elizabeth to Catholicism had been abandoned. Mary, Queen of Scots, the Catholic claimant to the succession to the English throne, had taken refuge from her rebellious subjects in England. Nor was the prospect in other directions less gloomy. "Never," says a recent writer, in reference to the first years of Elizabeth, "had

¹ Dr. Owen Lewis was born in Bodeon, Llangadwaladr (or Llanveirian), in Anglesea, on December 28th, 1533. He became Fellow of New College in 1553, and graduated B.C.L. in 1558. See article, *sub tit.* (which is incorrect, however, in many particulars), in the *Dictionary of National Biography*; Williams's *Eminent Welshmen*; Dodd's *Church History*, vol. ii.; Kirby's *Winchester Scholars*, p. 127; Boase's *Oxford University Register*, i. 239.

² In a letter which Parsons wrote from Rome to Dr. Allen at Rheims in 1579, he calls Lewis "the great friend" of Allen (Knox, *Letters of Cardinal Allen*, ii. 74). See also Dr. Allen's letter to Dr. O. Lewis, May 12th, 1579. Allen did not finally leave England till 1565.

a church so completely gone down before the first blow of opposition. Some 9000 parish priests were content, with good or bad consciences, to read the Book of Common Prayer, and to preserve their livings. Several of their former Bishops were dead, others were in prison or on parole or fugitives abroad. There was no attempt on the part of Rome to fill up vacant sees or to provide ecclesiastical organisation or government. . . The laity at home were left without pastors, guides, or instruction.”¹

The three exiles at Douay determined to fill this want, and to supply the Catholic laity in England with “pastors, guides, and instruction.” In 1568 Dr. William Allen founded the famous Seminary of Douay,² for the training of priests for the English Mission, with the pecuniary help of Morgan Phillips and the active encouragement—perhaps with the material assistance—of Owen Lewis.³ It was Phillips that purchased the house where the students first met,⁴ and it was through his posthumous generosity—he died in 1577, leaving all his possessions to the Seminary—that the College was able

¹ Law's *Conflicts of Jesuits and Seculars*, p. 7.

²In 1578 it was transferred from Douay to Rheims, where it remained till 1593. In that year it returned to Douay, and remained there till the end of the eighteenth century.

³Owen Lewis did undoubtedly help the English College at Rome in later years. A suggestion is made in a letter written from Rome in 1579 to Dr. Allen, in Rheims, by Haddock, one of the English students, which seems to show that Dr. Lewis helped the Douay College also with his purse. “When it was said that he (*i.e.* Owen Lewis) would get no Englishmen (to the Roman College), he said that you (Dr. Allen) should either send him some, or he would send you no money” (Dodd, vol. ii. p. cccl. seq.) Cf. his epitaph (Knox, *Records*, ii. 448): *Ejus in primis oper hujus collegii Duacensis et Rhemensis fundamenta facta sunt.*

⁴ Dodd, *Church History*, ii. 100.

to extend its activity.¹ The object of the founders was religious and not political. They trained men to save souls, not to overturn thrones and dynasties. In the first ten years of the Seminary's existence, Dr. Allen sent over as many as a hundred priests to England. They were quiet, earnest and devoted men, not given to blowing of trumpets or to boasting of their good work. Some of them, like John Bennett, of Flint,² and Robert Gwinn,³ went back to labour in Wales. The Government did not, except in times of political excitement, interfere with them, and the early Seminarists were free from political taint or suspicion of active disloyalty, because the founders of the College of Douay for many years kept themselves clear of political intrigues.⁴

¹ Knox, *Records*, i. 5, 10 c.d. In 1577 Gregory XIII. granted it an annual pension of 1200 gold scudi (Dodd-Tierney, ii. App. No. lii.).

² Father John Bennett, *alias* Price, *alias* Floyd, *alias* Baker, the son of Hugh John Bennett, of Brin Canellan, Flint, was born in 1548. He went to Rheims in Aug. 1577 (Knox, *Records*, vol. i. 128), and returned to Wales in 1580, "because there were few or none that rightly executed the functions of true priests in the country of Wales." He was apprehended in 1582, tortured, and sent to perpetual banishment in 1583. Two years later he went to Rheims, and at length "going from thence, he entered into the Society of Jesus" in 1586. He returned to his former mission in 1590, and died of the plague in London in 1625. This John Bennett should be distinguished from another of the same name, also a native of Flint, who was prominent in the Wisbeach stirs and Archpriest controversy. See Foley's *Jesuits*, vii. 50; Challoner's *Missionary Priests*, i. 416.

³ Robert Gwinn (Oxf. 1568, Douay, 1571) is said not only to have laboured in Wales, but to have written several books in Welsh, and to have translated Parsons' *Christian Directory* or *Llyfr y Resolution*. *Vide* Williams's *Eminent Welshmen* and Wood's *Athenae Oxoniensis*.

⁴ From 1574 onwards great numbers of Seminarists went to England from Douay and the other colleges. That their ministrations were in the main religious, and although sometimes

The success of the Douay Seminary led to the establishment ten years later, in 1578, of an English College at Rome. Some years before, Owen Lewis, now Archdeacon of Hainault, had occasion to go to Rome in connection with a lawsuit in which the Chapter of Cambray were involved. He speedily gained the confidence of the Pope, Gregory XIII. Cardinal Carlo Borromeo, the saintly Archbishop of Milan, admitted him into his intimacy, and when the appointed time came for the saint to lay down the burden of his earthly life, it was in the arms of the Welsh exile that he breathed his last.¹ Dr. Lewis naturally became acquainted with the Cardinal's chaplain, Dr. Griffith Roberts,² if indeed the two were not friends before, and as we find a Dr. Smith also frequently mentioned in connection with the two, it is no wild conjecture to conclude that Rhosier Smith³ was also numbered among the Archdeacon's

ignorant and unwise, not political, is seen by the fact that up to 1581 only three persons lost their lives for Catholicism under Elizabeth; although from 1570 onward all Catholic propagandists and "obstinate" recusants were treated as disloyal subjects, and imprisoned when caught (Hume's *Treason and Plot*, p. 84). It was only in 1582, after Campion's death and Parsons' return from his English mission, that Allen began to concern himself with politics (Knox, *Records*, vol. ii. p. xxiii; see Allen's *An Apologie, etc. . . . of the two English Colleges* (Mounts in Henault, 1581)). But see a letter of Sanders to Allen from Madrid in 1577 (c. *State Papers, Dom.*, Eliz., vol. cxviii.), which seems to show that even as early as that year, Allen was embroiled in political schemes.

¹ Knox, *Records of English Catholics*, vol. i. Intro. p. xxx. and p. 430; vol. ii. 469. St. Carlo Borromeo died in 1594.

² The author of a Welsh Grammar (Dosbarth Byr) published at Milan in 1567, and the *Drych Cristionogawl* (1585).

³ Published several Welsh books on the Continent. Died 1625. For an account of Smith, and a facsimile of a letter in Welsh written to him in 1596 by Griffith Roberts, see the present writer's article in the *Transactions of the Cymmrodorion Society* for 1902.

Welsh friends and followers. Almost the first use to which Dr. Lewis put his influence in high places was to establish another English College in Rome, where the best students at Douay could come to finish their training for the missionary field in the mother city of the Catholic faith.¹ In 1575-6 Dr. Allen, the head of the prosperous College at Douay, was summoned to Rome to give the Pope the benefit of his advice and experience. The result was that the Pope decided to found an English College at Rome.

There had long existed an English hospital (of St. Thomas of Canterbury) for the entertainment of pilgrims in the Eternal City. What its origin really was it is, with our present information, impossible to say. According to English authorities, it was founded in 727 by Ina ; it ceased to exist in 1204 ; and in 1362 it was revived by John Shepherd, a merchant of London.² According to the Welsh version, it was originally founded by King Cadwallader, and the house itself, which, we are told, was " both large and faire, standing in the way to the Pope's Pallace, not far from the Castle of St. Angelo,"³ was once the Palace of the last King of united Wales.⁴ Since the conquest of Wales in 1282 it had been thrown

¹ Taunton's *Jesuits*, p. 34 ; Ely's *Brief Notes*, p. 73. Meyer never even mentions Lewis, but ascribes all the credit for the English College to Allen.

² Taunton's *Jesuits*, p. 34.

³ *The English Romayne Life*, imprinted at London by John Chorlwoode, Anno 1590, reprinted in *Harl. Misc.* vol. vii. p. 136. The author was A.M., the initials of Anthony Munday.

⁴ " The Welshmen pretended the first foundation of the College to have bene by a British king, for the perpetuall behoof of his countrymen " (L. Lewkenor's *Estate of the English Fugitives in Spain*, printed in London, 1595). " The English Hospital,

open to the pilgrims of both nations, but its government, it was contended, should still lie in the hands of Welshmen.¹ However that may have been, in 1559 a Welshman, Sir Edward Carne, Queen Mary's ambassador in Rome, was appointed Custos or Warden, and two years later Dr. Goldwell, the exiled Bishop of St. Asaph. In 1567 the Bishop seems to have resigned,² and Edward Taylor, Thomas Kerton, and Henry Matthews are mentioned as his successors. In the same year Dr. Maurice Clenock—a thin disguise for Dr. Morris of Clynog, in Carnarvonshire—was appointed Camerarius, and ten years later Custos or Warden.

Morris, who was educated at Christ Church, Oxford, where he graduated B.C.L. in 1548, was afterwards attached to the household of Cardinal Pole. In the Cardinal's will the name of Morris appears as one of the attesting witnesses.³ In 1553 he became Rector of

yea, and this seminarie were in times past the Palace of Cadwallader, Prince of Wales . . . who by his last will . . . gave his House or Palace . . . to bee an Hospital for Welsh pilgrims . . . and ordained that certaine priestes of his country should have the rule and government of this Hospital for ever," etc. (Lewis Owen's *Running Register* (1626), p. 17).

¹ L. Owen's *Running Register*, p. 17-18.

² It may have been owing to advanced age, but more probably to other activities. In 1580 Goldwell refused to accompany Parsons and Campion to England, owing to his age. He was then close upon eighty years old. Bishop Goldwell, if Dr. Morris's alleged account is genuine, was confined to his room at the Hospital in 1578-9 (Dodd's *Church History*, vol. ii. 171). He was born about 1500 (Knox, *Life of Goldwell*).

³ In Card. Pole's will, which was executed on Oct. 14th, 1558, the attesting clause runs: "*Presentibus venerabili fratre meo Thomea Episcopo Assavensi ac discretis viris Seth Hollando decano Wigorniensi, Mauricio Clenocke capellano et Johanne Francisco Stella auditore meis, testibus ad haec per me specialiter vocatis et rogatis*" (Wills from Doctors' Commons, Camden Society, p. 53).

Orpington, in Kent, and Dean of Shoreham and Croydon. In 1556 he was presented to the sinecure rectory of Corwen, and a little before Queen Mary's death he was nominated, but was never consecrated, Bishop of Bangor. On the accession of Elizabeth he accompanied his friend Bishop Goldwell to Rome.¹

When the Pope determined, in 1578, to found an English College at Rome, it was only natural that he should utilise the Hospital which was already existing. The College was therefore joined to the Hospital, and the Warden of the Hospital became also the first Rector of the College. The instruction of the students was entrusted to three Fathers of the Society of Jesus, with Father Aggazzari at the head.² Immediately the College was opened twenty-six students were sent to it from Douay; and in the following year, 1579, the Seminary consisted of forty-two students, the Rector, the Jesuit Fathers, and six servants.³

The arrangement seems to have worked badly almost from the start. Dissensions broke out among the

¹ Dodd, i. 513. He was at Louvain, however, in 1562.

² "There is at Rome a colony sent from the Douay Seminary composed of 26 persons, nearly all divinity students, some of whom live in the hospital with the brethren, but the greater part in a house immediately adjoining the hospital. . . . Three Fathers of your Society are there by command of the Pontiff, and at the request of Cardinal Morone, the Protector" (Letter of Gregory Martin to Campion in 1578). At first, Father John Paul was chief of the Jesuits, but he soon left to take up the rectorship of the Jesuits at Sienna, so that in 1579 there were only two Jesuit Fathers left in the College. (V. Haddock's letter; Dodd, ii. App. lix.).

³ Gregory Martin to Campion in 1579. For an account of the curriculum see Meyer's *England and the Catholic Church*, p. 101 seq., and for the statute dated June 12, 1579, *ib.* Appendix xvi. Gregory XIII. gave it 3600 gold scudi a year, and the Abbey of San Sabino, which brought in a yearly income of 3000 ducats.

students, which culminated in open rebellion against the Rector. It may be admitted at once that the Rector himself was incompetent for the delicate and difficult task he had to perform.¹ He was a kindly, well-meaning, garrulous old man ; fond of a tale and a glass of wine and "good cheer" generally.² He had never had any previous experience of governing students,³ and the thirty-three English students⁴ resented the

¹ Of Dr. Morris's capacity and character there are extant several contemporary estimates. In the Vatican papers he is described as "a good man, but is no preacher. He is worthy of the See of Bangor, to which he has been nominated" (Brady, *Episcopal Succession*, ii. 324). Dr. Allen, in writing to Dr. O. Lewis, admits that it was a mistake in the first instance to appoint Morris, "because Mr. Maurice, being otherwise a very honest and friendly man, and a great advancer of the students' and seminaries' cause, had admitted there, sent for, and called for two up to the Seminary, some of his own country folks and friends, for age, quality and instruction unfit for the study and the Seminary." "It was," he adds, "an escape and default" on O. Lewis's part, "because you did not dehort Mr. Maurice from taking unto him that charge in the beginning for which, indeed, no dishonour be it unto him, he was not sufficient" (Knox, *Records*, ii. 79, May 12, 1579). But it must be remembered that Allen was prejudiced by his kinsman Haddock and his inclinations to the Jesuits.

² Anthony Munday tells how he and his "fellow" sat up one night with Dr. Morris at the Hospital. "Maister Morris using us very courteously, passing away the supper-time with much variety of talke, amonge which maister doctor sayde his pleasure of divers persons in Englande: which for that it would rather checke modestie, then challenge any respect of honestie, I admitte it to silence; the talke being so broade that it would stand as a blemish to my booke."

³ Fr. Parsons to Allen, from Rome, March 30th, 1579: "Touching Mr. Morice and his government, I think verily and do partly know also, that it was insufficient for such a multitude; and how could it be otherwise, he being alone without help and never practised in such a manage before?" (Knox, *Records*, ii. 74).

⁴ "We (*i.e.* the English students) were thirty-three in company" (Haddock's letter to Dr. Allen; Dodd, ii. App. lix.).

open preference which the old Welshman showed for the company of his nine compatriots in the College. The question of the origin of the College was invested with a new importance, and racial passions ran high. The petition which the English students drew up is evidence of the bitter hatred which had been engendered. They appealed to Cardinal Morone, the Protector of the College, and the speech of Sherwin,¹ the spokesman of the English students, has been preserved by one who heard it delivered. "When any Englishman," said Sherwin, "cometh to the hospitall, if his learning be never so good, or his behaviour never so discreet, except he (the Warden) be pleased, he shall not be entertained : ² but if a Welshman come, if he be never so vilde a runagate, never so lewde a person, he can not come so soone as he shall be welcome to him ; whether he have any

¹ The "author-reporter" of the speech was Anthony Munday, who only published it in 1590, or eleven years after. He refers to Sherwin as one "whoe was executed with Campion (in 1581), being there esteemed a singular scholler, bothe for his eloquence, as also his learning." Sherwin, though executed with Campion, was a Secular priest, and not a Jesuit. The report, which tallies with the written complaints of the English students, seems to be substantially accurate.

² This hardly agrees with the account which Munday gives of the welcome which was extended to himself and his "fellow" at the Hospital, "allowing us the eight days entertainment in the hospital, which by the Pope was granted to such Englishmen as came thither." Munday, however, says that the proximate cause of the students' outbreak was his own treatment at the Hospital. He admits that he outstayed his eight days, that he refused to become a student, that he had assumed the name of a well-known Catholic family in order to deceive the English refugees, that he broke every rule and suffered every punishment at the College, and that when he found the English students in a rebellious mood because Dr. Morris wanted to eject him, "I behaved myselfe more forwardly to Dr. Morris than ever I did before : everythinge that I hearde of him I tolde unto the schollers, and tarried there, dinner and supper, in spite of his

learning or no, it maketh no matter, he is a Welshman, and he must be permitted.¹ Then which of us hath the best gowne, he must receive one that is all ragged and torne,² and the new-come Welshman must have the

nose." Finding it impossible to get rid of the impudent impostor, Dr. Morris complained to Cardinal Morone. This, according to Munday—whose story in other respects is confirmed by independent evidence—led to the first act of open rebellion on the part of the English students, who said "that if Dr. Morris would put everye Englishman he thought good on out, in short time the colledge would be all Welshmen."

¹ Cf. the English students' memorial, "*Causae quae scholares Angli*," etc., cited in Dodd's *Church Hist.* vol. ii. No. lix. "Nam ut illi (*i.e.* Dr. Morris and Dr. Lewis) augere possent numerum Wallorum in seminario, convocavunt alluc ex omni loco et admittebant Wallos sine commendatione et examinatione, nam admiserunt fere senes et ineptos, nulla habita ratione aetatis, aut morum, aut literarum . . . qui contrarium spiritum nobis habent, et contrarium finem intentioni suae sanctitatis de sublevanda patria nostra. Ex contraria autem parte, Anglos nullos admittebant, nisi theologos aut philosophos, et variis modis commendatos, et eos etiam difficulter." Cf. also Haddock's letter to Allen: "Of the Welshmen that we have here, our Fathers do say, and so they show themselves, that they be "*ineptissimi pro seminario*." Parsons boasted that the English students "are descended . . . frequently from noble families and wealthy parents . . . and . . . that in the three English seminaries of Rome, Rheims, and Valladolid there are more flowers of nobility than among all your clergy at home." (Philopater, par. 214). Probably this was not the case with the Welsh students.

² Cf. Parsons to Allen, March 30th, 1579 (Knox, *Records*, ii. p. 74). "The schollers also were very evil provided for necessities sometimes going all ragged and in worse case, some of them at least (and those of the principal) as I have seen with mine eyes. National partialities also in distribution of things, I think, was not so carefully avoided as ought to have been." This is also mentioned in the English students' "*causae*," the first part of which has already been cited. "Post, autem admissionem in seminarium, iniquissime distribuebant (omnia). Nam Wallis integra cubicula, Anglis arctissima loca: Wallis vestem novum et duplicem pro hieme, Anglis, iisque sacerdotibus et nobilebus multis, nullum hiemis vestitum; imo cogeabant

best, because he is the Custos' countryman ; and many nightes he must have the Welshman in his chamber, where they must be merry at their good cheer : wee glad to sit in our studies, and have an ill supper, because M. doctor waisteth our commons upon his owne countrymen : so that we must be content with a snatch and away. If there be one bedde better than another, the Welshman must have it ; if there be any chamber more handsome than another, the Welshman must lodge there ; in breefe, the things of most account are the Welshman's at commande. This maketh many of us to wishe ourselves Welshmen, because we woulde gladly have so good a provision as they ; and being countrymen to our Custos, wee shoulde all be used alike : excepting maister doctor's nephew, Morganus

eos secretiore vestes aestatis praeteritae ferre laceratas, et omnino vermibus infectas. Sic cum hospitale Anglorum, ab Anglis jam a multis saeculis fundatum, auctoritate suae sanctitatis ad regimen illorum pervenisset, omnes Angli statim ejiciebantur, Walli retinebantur qui ibi prius erant, et externi etiam Walli convolabant statim, omnes tanquam ad communem praedam, et coquinâ, ejusque ministris, aliisque omnibus commoditatibus hospitalis sic fruebantur, ut suis propriis ; cum interim nullus et Anglis externis, et per civitatem habitantibus, similem humanitatem ab illis vel petere auderet vel sperare."

It is interesting to find what object the English students thought Dr. Morris and his friend the Archdeacon were trying to serve.

" Hinc etiam apparet causa, quare archidiaconus tam vehementer laborat retinere D. Mauritium et scipsum in hoc regimine, ut quinquaginta tres Walli, qui domi Anglis serviunt, dominentur his Romae, et, si forte his temporibus (quod speramus) convertatur Anglia ad fidem catholicam, ipse, per favorem quem ambit summi pontificis, et illustrissimorum cardinalium, se suosque Wallos ad dignitates ecclesiasticas in Anglia promoveat, quod nunquam poterit fieri sine infinita perturbatione illius regni" etc. Meyer's criticism of Hume's (*Treason and Plot*) statement, and that it is absurd to attribute to the seminarist "golden dreams of mitres, titles, and commands," is, in view of this passage, a little beside the mark (p. 353, n. 2).

Clenokus,¹ he must be in his silke, though all the rest goe in a sacke.”²

A little tact and wisdom, opportunely applied, might have averted the worst effects of the conflict, but these were elements which seem to have been lacking on both sides. Dr. Morris was in constant communication, if not in daily contact, with Owen Lewis; indeed, the government of the College seems at this time to have been largely in the hands of the Archdeacon. Early in 1579, a wandering Englishman, half spy, half adventurer, and wholly rascal, named Anthony Munday,³ visited the Hospital, and in a pamphlet which he published eleven years later he gives a very vivid and amusing account of the dissensions at the College. Almost immediately after his arrival, Dr. Morris took him to

¹ Morgan Clenock was entered as an alumnus at the Roman College in 1579, æt. 19. He had, therefore, only just arrived from Wales. Morgan was sent to England as a missionary priest in 1582, and laboured in the missionary field in Carmarthenshire.

² Munday's *English Romaine Life*, Harl. Misc. vii.

³ This amusing rogue says that it was “desire to see strange countries as also affection to learn the languages” persuaded him to travel abroad. He confesses that, while in Paris, he assumed a false name, which served as a passport to English Catholic circles on the Continent. He was at first a stage-player, then a servant to the Earl of Oxford; and ultimately a messenger of the Queen's bed-chamber. Soon after his Roman escapade the Jesuits found out that he was a spy, and in 1581 Parsons wrote violently against him in his *True Reports of the Death and Martyrdom of M. Campion*. But this was after Munday had betrayed to the English Government the “treasonable practices” of Campion. In 1582 he published a book, *A Discoverie*, in which he repeated his charges against the Jesuits. His true character, or want of character, is abundantly shown in his own writings, but though he wrote with an occasional touch of malice, he seems on the whole to be a careful observer and a truthful witness.

" Doctor Lewes, Archdeacon of Cambra, to whom wee delivered his letter likewise, and with him wee staid dinner : ignorant whether he were an Englishman or no, for that he gave our entertainment in Latin, demanded a number of questions of us in Latin, and beside dined with us in Latin : whereat we mervayled, tyll, after dinner, he bade us walke againe to the colledge, with Doctor Morris, in English."

But Owen Lewis seems to have been incensed at the time against the English in general,¹ and the Jesuits in particular. He suspected—and it is impossible to deny that there was some foundation for the suspicion—that the three Jesuit instructors were fanning the flames of strife.² One of the English students, named Richard Haddock,³ wrote to his relative, Dr. Allen, at

¹ Dr. Allen was told at Paris that Dr. Lewis once said to Leslie, the famous Bishop of Ross, " My Lord, let us stick together, for we are the old and true inhabitors and owners of the isle of Brittany. These others be but usurpers and mere possessors " (Knox, *Records*, ii. p. 82). There is no doubt that he was at this time friendly with Leslie (*vide* Dr. Plowden's *Remarks*, p. 103), who in the later years of his life was Lewis's pensioner (*State Papers, Dom.*, Eliz., vol. cclii. 10).

² In his letter to Dr. Allen, dated Rome, March 10, 1579, Dr. Owen Lewis gives expression to his suspicions about the Jesuits. The students' " supplication was penned better than many of them can pen." Dr. Lewis states that he told the Pope "*multos esse, juvenes et deceptos, qui putabant se vivere in statu peccati, si aliis parerent quam Jesuitis*," and that, though the students nominated Morton and Bavand as their Rector, or else the Jesuits, he had recommended Dr. Bristowe (of Rheims) to the Pope, and to the Cardinals Morone and Como.

³ Haddock, who was a relative of Dr. Allen (*vide* Taunton's *Jesuits*, p. 191), was at this time and all through his life a zealous adherent of the Jesuits, and a supporter of the " Spanish faction." He and Array, one of the other English malcontents, afterwards acted as proctors for the Archpriest Blackwell at Rome during the " Appellant " controversy, twenty years later (*ibid.* 251), and Mush mentions Haddock as one of Parsons' mercenarii in

Rheims, giving an account of the disturbances at the Roman College. After describing how four of the English students had gone to Civita Vecchia to speak to the Pope, who told them that *non erat tempus nunc*, he went on to say, "These things being thus, beginneth good Mr. Archdeacon to play his part, of whom, by the way, you shall understand how (for all his fair words and promises) he is affected towards us and our cause. For at our being away from home he uttered these words, which be all over the town, to his great shame, if he had any, to wit, that he had three sorts of enemies, amongst whom the first were boys . . . The second are the Jesuits, whereas I wonder he is not utterly ashamed, and by the which I trust, you will more easily understand his doings, and orderly and honest proceedings against your poor company and scholars; and for my part, I do promise him very hardly the friendship of any Catholic Englishman that proclaimeth himself enemy unto the Jesuits. But as he useth in all things else, he will peradventure deny that again. The third was, as he termed them, charlotorii, that is, tattlers, wherein he comprehended all our countrymen in the town." ¹

Rome, 1602 (*ibid.* 262). Mush, who was one of the most prominent of the malcontents, afterwards became an opponent of Parsons and the Jesuits. Parsons described him as one who had been rejected by the Society of Jesus on account of his impracticable temper, and of an impetuous and resentful disposition. He was "a poor rude serving man" who had been received and educated by the Jesuits out of charity (*ibid.* pp. 264, 268).

¹ Haddock's letter of March 9, 1579, which is very long and detailed, gives an excellent chronological account of the concluding stages of the "English revolt" against Dr. Morris (Dodd, ii. App. No. lix.)

The letters of Haddock seem to have carried great weight with Dr. Allen, who, in spite of his close friendship with Dr. Owen Lewis, took the English side in the dispute. Probably, "nepotism"—as well as anger at the Jesuits and sympathy with his Welsh friend—had something to do with Owen Lewis's attitude; for one of the most energetic and fiery of the Welsh faction was his nephew, Hugh Griffith,¹ afterwards Provost of Cambray. "You must temper your cousin Hughes tongue and behaviour," wrote Allen to Lewis,² "who is of a bitter, odd, and incompatible nature." Hugh Griffith, indeed, had no doubts as to the part which the Jesuit fathers were playing.

¹ Hugh Griffith is mentioned by all the English writers as one of the principal causes of the quarrel. Munday says that one day the scholars were called before Cardinal Morone "because there was one Hugh Griffin, a Welshman of a hote nature, and he woulde many times fall together by the eares with some of the schollers that sometime the blood ranne about their eares" (*The English Romaine Life*). Haddock tells Allen, in his letter of March 9, that if the Welsh students "could have their will, they would live here for ever, and do nothing but quarrel; as Griffith never ceaseth, Smith, nor Meredith." Hugh never forgave the Jesuits the part they had played. In February, 1582, Dr. Lewis wrote to Allen from Milan: "*nepos meus Hugo jam complevit cursum philosophiae. Scripsit dominus Cardinalis S. Sixti ad me suadens ut illum ad me ex urbe revocarem; quod libenter facerem, si non esset ad quaedam mea et archiepiscopi nostri Cameracensis negotia illic persequenda necessarius. Conqueruntur quod multa loquatur contra collegium; nescio; sed suavi et amica tractatione possent illum habere amicissimum.*" In the last sentence is to be found probably the secret of the ill-success of the Jesuit fathers in their treatment of the Welsh students. Allen wrote back advising Dr. Lewis to take his nephew away, "*ac id quoque esse ad salutem juvenis et collegii pacem omniumque animorum reconciliationem*" (Knox, *Records*, vol. ii. 112 seq.). For proofs of Hugh's lasting animosity to the Jesuits, *vide* Foley's *Jesuits*, vi. 740; Ely's *Brief Notes*, 12; Tierney's *Dodd*, vol. iii., p. lxxx.; *Spanish State Papers*, 1596, p. 628.

² May 12th, 1579 (Knox, *Records*, ii. p. 82).

"Hugh writeth to me," said Allen,¹ "and to Dr. Bristowe most plainly that the Jesuits have been and shall be proved the council and counsellors of all these tumults . . . Item, he saith that the Jesuits have no skill or experience of our country's state, nor of our men's nature ; and that their trade of syllogising there is not fit for the use of our people."

For a long time the Welshmen held out triumphantly against the English students. In vain did the malcontents appeal to the Cardinal Protector and even to the Pope. The answer was always the same, "You must obey the Rector." At last, the English students in a body left the College, and determined to walk back across the Continent on their way to England. When they marched out, great was the joy among the Welsh students, and hot Hugh Griffith "gave a leap in the College hall, and shouted 'Who now but a Welshman?'"² But the end was not yet. The English students had no money, and for a few days they put up at the house of an English resident, named Creed,³ while they begged their *viaticum*. In the meantime, the Jesuits spread broadcast the story of their grievances. Every Jesuit pulpit in Rome resounded with eulogies of the pluck and courage of the English students.⁴ At

¹ *Ibid.*

² Parsons' letter to Dr. Allen, March 30, 1579 (Knox, *Records*, ii. p. 74).

³ This is the name given both by Munday (*English Romaine Life*) and by Haddock in his letter to Allen. Dr. Lewis, in his letter to Allen, states that the students had gone to Dr. Morton's house, "credo," but the qualification shows that the Archdeacon was only speaking from hearsay (Dodd, ii.). As both Munday and Haddock were among the malcontents, their evidence is conclusive.

⁴ The accounts given by Munday in *The English Romaine Life*, and by Haddock in his letter, show beyond question that

last the news came to the ear of the Pope himself—Owen Lewis says that he was the informant.¹ The Pope became alarmed at the possible effect which the angry exodus of so many aspirants to mission work would have on the enterprise of converting England. He called the malcontents to him, he sympathised with their grievances, he insisted that he had founded an English, and not a Welsh College,² and he ended up by promising to concede all their wishes. He was as good as his word.

the Jesuit Fathers were supporting the English students. "The Jesuits," said Haddock, "began to beg in the pulpits for us, being Ash-Wednesday, and the first day of preaching, but without naming us. . . . And at Sienna is the Rector of the Jesuits, he that was our father the last summer . . . father John Paul, where we had 50 crowns appointed for us to be taken by the way. . . . The Jesuits were out of their wits almost for us, insomuch that they wept, many of them. . . ." Then when the news of victory came, "our fathers were beside themselves for joy. The Jesuits at the colleges were never so amazed and joyful. . . . In one word, such a general joy was through the whole society for us, as if it had been for themselves. . . . The Jesuits admire our doings that we durst be so plain in our doings" (Dodd, ii. App. lix.).

¹ Lewis to Allen, March 10, 1579. On Ash Wednesday, he says, he went to the Cardinal "*ante lucem*," and got him to tell the Pope (Dodd, ii.). "Mr. Archdeacon," says the sceptical Haddock, "would make us believe that he procured our return again. But we know he had appointed to have set or to have taken himself the house we dwell in, and had appointed of Scotchmen and Irishmen in our places" (Dodd, ii.). The Cardinal of Como told Lewis that the students did not believe he had sought to get them reinstated, "*quod tamen*," said Lewis to Allen, "*est verissimum*" (Dodd, ii. App. lix.). This is the version adopted by the author of *A Brief Discovery*, and by Lewis Owen in his *Running Register*.

² Munday relates that when Sherwin explained the grievances of the English students to the Pope, "upon these words the pope started out of his chayre. 'Why' (quoth he) 'I made the hospitall for Englishmen, and for their sake have I given so large exhibition, and not for the Welshmen.'" But neither Haddock nor Lewis confirms this version.

Dr. Morris was removed from the Rectorship of the College, though he was allowed to retain the Wardenship of the Hospital.¹ The students were allowed to nominate his successor. The Englishmen selected the Jesuit, Father Aggazzari ;² the nine or ten Welshmen nominated Dr. Bristowe of Rheims.³ But though the Welshmen's choice was supported by Dr. Lewis, the English students carried their man. Whether the Jesuits had intended, from the start, to capture the College or not, in the result, that was the issue of the dissensions. They had undoubtedly sympathised with the English faction ; they had actively supported them ; the Welshmen openly accused them of being the root and origin of the mischief. Soon after Dr. Morris left Rome. In 1580, he embarked at Rouen on board a vessel which was bound for Spain. The ship was wrecked, and Dr. Morris was drowned.⁴ Once more the Roman Hospital was joined to the College, and the large income of the Hospital went to the support of the Jesuit College. Owen Lewis retired—some said in disgust⁵—to Milan, and there he remained with his

¹ " The Cardinall Morone, because Dr. Morris should not lose all his dignity, caused the house to be parted, and so made both a seminarye for the students, and an hospitall for the entertainment of English pilgrims when they came, whereof Dr. Morris continued custos by the pope's appointment" (*English Romayne Life*).

² As early as Jan. 20, 1578, the English students had sent a petition to the Cardinal Protector, *nullum certum hominem petimus, quia absumus in hac causa ab omni humano affectu : solum cupimus . . . ut res committatur patribus societatis Jesu. . .*" (Dodd, ii. App. lx.).

³ Lewis to Allen, March 10, 1579.

⁴ Morris was in Rome in July, 1580. (See Goldwell's letter to the Cardinal of Como ; Theiner, *Annales*, iii. 701 ; Plowden, *Remarks*, p. 105.)

⁵ Plowden, *Remarks*, p. 105. For the dispute between Welsh and English, see also H. Morus, *Hist. missionis Angl. soc. Jesu*.

friend Cardinal Borromeo for several years. It is quite possible, therefore, that he may have read in MS. Griffith Roberts's *Drych Cristionogawl*, which was published by Rhosier Smith in Rouen in 1585.

"Thus was the strife ended," wrote Anthony Munday in his flippant way ; but Parsons was wiser in his generation. "Thus you see," he wrote to Allen,¹ "when national dissension is once raised how hard it is to appease it " ; and Allen deplored to Lewis² the racial strife which he knew was "much greater and much further spread, by that beginning and root there unluckily planted, than you there can perceive." But neither Parsons nor Allen foresaw the magnitude of the effects of that unlucky conflict. Allen thought it was "so honest a thing" for the students "to have the fathers for their governors." He was of Haddock's opinion that the fathers would bring the Welsh students into order, so that "before it be long" they would have in Rome "place for a hundred, and thereby the glorioussest College of English in the world."³ He did not agree with Hugh Griffith that the Jesuits had "no skill or experience of our country's state, nor of our men's nature."⁴ Nor had he noticed a phenomenon which had impressed the English students,

(1660); Sacchinus, *Hist. soc. Jesu.* pt. iv. (1652), lib. vii. ; Parsons' *Memoirs* ; and Dodd-Tierney, vol. ii. Appendix, No. lix.

¹ Knox, *Records*, vol. ii. 74.

² May 12, 1579 (Knox, *Records*, ii. 78 seq.).

³ Haddock's letter to Allen, March 9, 1579 (Dodd, ii. App. lix.).

⁴ Quoted in Allen's letter to Lewis, May 12, 1579 (Knox, *Records*, ii. 82). Dissensions soon broke out in the College under the Jesuits, whose methods of *espionage* and *angeli custodes*, and the invidious preference shown to members of their own Order, led to further troubles. For an account of their disciplinary system, see Meyer's *England and the Catholic Church*, p. 102 seq.

that Welsh ideals and methods in religion were different from their own.¹ The Welsh students at the College were, in the eyes of their English comrades, "*ineptissimi pro seminario*," because they were older in years and more untrained in scholarship than their fellows.² The Welsh Rector and his friend the Archdeacon of Hainault may well have thought that these men, however short they might have fallen of the English standard, were yet admirably suited for mission work among their own countrymen at home. Henceforward there was strife between the Welsh Catholics on the Continent and the Jesuits. Welsh students were looked upon askance, as being breeders of dissension.³ They were required to

¹ "Sed tamen (Walli) et lingua, et moribus, et loco habitationis, et natura etiam multum differunt ab Anglis. . . . Itaque Angli et Walli, quoad amorem naturalem, se juncta religione christiana quam utraque gens proficitur, ita se plane habent et invicem, ut Hispani et Mauri. . . ." They complained that Dr. Morris had introduced Welsh students into the college "*qui contrarium spiritum nobis habent, et contrarium finem intentioni suae sanctitatis de sublevanda patria nostra*" ("Causae quare scholares Angli tantum abhorrent a regimine D. Mauriti," quoted in Dodd's *Church History*, vol. ii. App. No. lix).

² "Nam ut illi augere possent numerum Wallorum in seminario, convocabant illuc ex omni loco et admittebant Wallos sine commendatione et examinatione, nam admiserunt fere senes et ineptos, nulla habita ratione aetatis, aut morum, aut literarum" (*ibid.*). In our own times, the wisest thing that the Church of England in Wales ever did was to establish a College at Lampeter for students for the ministry who in the opinion of Oxford and Cambridge would have been "*ineptissimi*." Who can think of Bishop Joshua Hughes and Chancellor Silvan Evans as "*ineptissimi*"?

³ See a remarkable letter sent by Dr. Richard Barrett, of Rheims, in April, 1583, to Father Aggazzari, advising him how he should manage the Welsh students, not by contradicting and forcing them in his way, but by seeming to humour them. "Nam (haeretici in Anglia) excitant quantum possunt Wallos contra Anglos, et contra : et in utroque genere hominum incidunt aliquando in eos quos facile est commovere. Walli certi dili-

attain to the English standard before they were admitted to the seminaries,¹ and as educational advantages were few in Wales, and the people were poor, the number of Welsh students at the Catholic seminaries became less and less, as time went on. Wales was allowed to drift, by almost imperceptible degrees, away from the Catholic faith. In the next century devoted priests trained in the Jesuit schools, such as Robert Jones² and Philip Evans,³ William Morgan⁴ and David Lewis,⁵ laboured

gentissimi sunt et egregii artifices in hac re. Observant mirabiliter si quis querelam aliquam habeat, aut causam aliquam alienati animi, ut illi putant, a superioribus, cujusmodi res frequentissimae sunt. Hunc aggrediuntur omni humanitate et officio; dant, si opus sit pecunia; invitant ad collationem; nunquam relinquunt; et hoc modo pervertunt saepe multos ex Anglis," etc. (Knox, *Records*, vol. i. 326). "Parsons," wrote a spy to Cecil in October, 1601, "is altogether incensed against the Welsh, and then said that two Welshmen should never be of the College at once during such time as he was Rector, for if there were three they would set the house on fire. His reason for this cause is that Richard Powell, of Millayne, and ——— Bennett, now priest in England, curbed him, and made their complaints to the Cardinals of misgovernment of the College" (*State Papers, Dom.*, Eliz., vol. xxxiv.; Addenda, n. 42, ii.; Foley's *Jesuits*, vi. 738).

¹ "And one thing mark—that if you send any Welshman, let him be as fit as the others, or else, by any means, hinder him" (Haddock to Allen, March 9th, 1579).

² Robert Jones, "Robertus Hilarius," or Hay, born, 1564, near Chirk, Denbighshire. Alumnus, S.J. at Rome, 1582. Succeeded Fr. Holt as Superior of whole Order in England, 1609. (*Vide* Foley's *Jesuits*, vol. iv. pp. 333-561.)

³ Philip Evans, b. Monmouthshire, 1645; educated St. Owen's; entered S.J. 1665; South Wales Mission, 1675; executed (after Oates' plot) July, 1679.

⁴ William Morgan, second son of Henry Morgan, Flint, b. 1623; entered Engl. Coll. Rome, 1648; S.J. 1651; Professor at Jesuit College, Liège, 1661; North Wales Mission, 1670; in Oates' list, but escaped to Continent, 1679; Rector of Engl. Coll., Rome, 1683; Provincial S.J. 1689; d. St. Omer, 1689.

⁵ David Lewis, *alias* Charles Baker, b. Abergavenny, 1614;

in various parts of Wales, and with some success.¹ But though the harvest was plentiful, the labourers were few. They had been trained, moreover, after a foreign model and they formed part of an alien organisation. Their system possessed and reflected none of that intense national individuality which has always marked the religious life of Wales.² The racial animosity and the sectarian prejudices, so lightly aroused in Rome in 1579, not only paralysed in after years the efforts of the Jesuits to win back England to the Papacy, but they led, in the long result, to Wales being left derelict, until the Puritans came and held before Welshmen a new religious ideal, which, whatever be its defects, had the merit of meeting the spiritual needs and conforming to the distinctive genius of the people of Wales.³

Engl. Coll., Rome, 1638; priest S.J. 1642; South Wales Mission, 1648; apprehended at Llantarnam for alleged complicity in Oates' plot, and executed at Usk, Aug. 27, 1679.

¹ *Vide* Reports of Catholicism in Wales in Foley's *Jesuits*, vol. iv. p. 441. In 1636, for example, the various missions in South Wales are said to have been attended "with much success," which was attributed "to the greater attachment of the common people to the ancient faith, and to the absence of luxury." In 1641-4 there were said to be twenty-seven fathers and two lay-brothers in the Mission, and 154 conversions are recorded in South Wales. In 1676-7 the return gives only six fathers in South Wales.

² It is a happy augury for the success of the Disestablished Church that in the Church Congress held at Llandrindod Wells in June 1919, it was unanimously resolved that Wales should be formed into a distinct ecclesiastical province under its own Archbishop.

³ Plowden, in his *Remarks* (1594, p. 101), states that the first beginning of the feud was caused by the attempt of Dr. Owen Lewis "before the alteration of the English hospital at Rome into a college . . . in conjunction with his countryman, Dr. Maurice Clenock, to introduce a Welshman, of the name of Price, as fellow into the hospital; and he had been foiled in the attempt

The Society of Jesus had been for some time casting longing eyes on the English mission field. The political situation was becoming more and more complex. For many years the Catholics of England had been content to obey Elizabeth as the sovereign *de facto*, if not *de jure*.¹ Most of them were willing to acknowledge her as the rightful queen. Her natural successor was Mary, Queen of Scots, and Catholics were content at first to bide in patience till Elizabeth was removed by the process of time. But by 1579, Mary had been for eleven years practically a prisoner in Elizabeth's hands. One plot after another for her release had failed ; the Ridolfi conspiracy had ended disastrously and the Duke of Norfolk had lost his head on the scaffold. In vain had the Pope, in 1570, launched his Bull of Excommunication against Elizabeth.² There was no one to enforce it,

through the opposition of the English chaplains of the house. . . . This petty disappointment was not forgotten when a national quarrel broke out between the English and Welsh students newly admitted into the college." I have, however, found no other reference to this dispute, and know not upon what authority Plowden based his statement.

¹ Though Pius IV. passed a Bull of Excommunication against Elizabeth in 1560, it was not published till 1570 by Pius V. The secular sovereigns of Europe were not prepared even then to enforce it, and it therefore remained in abeyance. Gregory XIII. had to explain away the Bull in 1580 (Meyer, p. 138). In 1583 the Bull was renewed. But Sixtus V., on the eve of the Armada, refused further to renew it, though he published a "broadsheet" reciting the previous Bull (Meyer, p. 323).

² Dr. Morris of Clynog wrote a letter in Welsh dated May 24, 1567, from Rome to Sir William Cecil warning him in veiled language of the threatened excommunication, which had then been decided on, though it was not published till 1570. Pius V. had succeeded Pius IV. in 1566, and the ascetic friar, "Brother Woodenshoe," as he was nicknamed, early evinced his determination to publish the Bull. See the writer's article on "Welsh Catholics" in the *Cymmrodorion Transactions*, 1903, Appendix D, where a facsimile of the letter is printed.



and Philip of Spain, the most orthodox and devoted Catholic prince of his age, refused to allow the Bull to be published in his dominions. The most Christian King of France was anxious to conclude a political and matrimonial alliance with the heretic queen. In the meantime England was becoming more and more identified with the Protestant cause. Her political needs drove her to take up the position, which Elizabeth had not sought, of champion and protector of the Protestant princes and states of Europe. Her expanding trade and her daring sailors brought her into sharp contact with the pretensions of Spain. A new generation was growing up that remembered no other form of worship except that which was established by law. It was no wonder that strenuous and fiery souls should become impatient at the long and weary waiting. They longed to be back once more in the land of their birth ; they were conscious of great talents, which they felt should be directed to greater and more enduring objects than intrigue and plot. The conversion of England by prayer and preaching, by moral suasion and lives of self-sacrifice, seemed a dreary if not a hopeless task. By slow stages there emerged two parties or factions among the English exiles on the Continent. The one may be called the " physical force " party, composed of men who were willing to sacrifice the political independence of England on the altar of religion. They were ready to hand over the throne of England to a foreign prince in order that the realm might be regained to Catholicism. The two most prominent champions of this school were Dr., afterwards Cardinal, Allen—in the last dozen years of his life—and Robert Parsons, the greatest of the English Jesuits. They saw, or thought they saw, that it was

only by deposing Elizabeth and subjugating England that the Catholic religion could be re-established.¹ Mary Stuart was powerless and a prisoner. The French king was either fighting or conciliating the Huguenots. In either case he was in no state to take in hand the gigantic task of conquering England. Philip of Spain alone remained. He was a bigoted Catholic ; he was the most powerful monarch in Europe. His army was the finest military engine in the world ; the Duke of Parma was the first Commander of the age ; the wealth of the Indies was at his command ; his fleets covered every sea. But Philip was not inclined to move as long as Mary Stuart was an effective claimant to the English throne.² For thirty years, therefore, Elizabeth was left secure. The English refugees perceived that their one hope of conquering England in their own lifetime was by adopting Philip as their champion. His descent from John of Gaunt was paraded ; the fact was recalled that in Mary's reign, he had been titular King of England. Mary Stuart herself, not long before her death, solemnly disinherited her son for heresy, and made Philip of

¹ " Of all the orthodox in the realm there is not one who any longer thinks himself bound in conscience to obey the queen ; and we have lately published a book especially to prove that it is not only lawful, but our bounden duty, to take up arms at the bidding of the pope, and to fight for the faith against the queen and other heretics " (Allen to the Pope, 1587-8, quoted in Simpson's *Life of Campion*, p. 377).

² " Yet, after the death of the Queen of Scots, both Allen and Parsons sought to stir up the Spanish king, who never could be persuaded to attempt anything against England ; and in her lifetime, objecting that he should travail for others ; she being dead, the expectation was increased for the last invasion " (Confessions of James Young, priest, in 1592 (*State Papers, Dom.*, Eliz., vol. ccxlii. 121)). Cf. Neville's letters to Cecil, June 27, 1509 (*Dom.*, Eliz., vol. cclxxi. 29).

Spain her heir. For several years before her execution, the Jesuits had worked for the King of Spain; Mary was only used as a convenient tool to further their real designs; and her death was calmly discussed by leading Jesuits as having finally removed the only serious rival from Philip's path.¹

On the other hand, there was a powerful and numerous band of Catholics who hated the Spaniard and distrusted the Jesuits, who would have no foreign power predominant in England, and who looked to the reclamation of the fatherland by faith and works, by patient zeal, and reliance on the invincibility of truth. Some of them, indeed, were no contemners of carnal weapons. The French and Scotch factions, led by Leslie, the Bishop of Ross, and Thomas Morgan, "of a right worshipful family in Monmouthshire,"² the most celebrated conspirator of the age, and the trusty friend and servant of Mary Stuart, were ready to invade and conquer England by armed force, if it would result in the immediate or ultimate elevation of the Queen of Scots to the English throne.³ But the view of the

¹ On June 15, 1587, Olivarez wrote to Philip II.: "They (*i.e.* Allen and Parsons) do their best to convince me that it is not only no loss, but that by her death (of Mary, Queen of Scots) many difficulties had disappeared." Cf. Hume's *Treason and Plot*, p. 13.

² *State Papers, Dom.*, Eliz., January, 1589-90. He was born in 1543, and was probably the son of John Morgan of Bassalleg, a junior branch of the Morgans of Tredegar. He died about 1611. For an attempt to ascertain the origin and career of Morgan, see App. G. in the writer's article on "Welsh Catholics on the Continent" in the *Transactions of the Cymmrodorion Society* (1901-2).

³ In the *Spanish State Papers* for 1590 (p. 565), a document is published containing an interesting account of Morgan's career and policy as they appeared to his enemies. The marginal

Welsh Catholics generally was against such "enterprises." They believed only in the use of spiritual weapons. They did not care so much to change the government as the religion of England. They aimed at converting, not the ruler, but the people of the country. If the people remained Catholic they cared not if, for the nonce, the State Church was Protestant. They had sufficient faith in their Church to believe that what the last three centuries have shown to be possible in Ireland was also practicable in England, and that the religion of a people was independent of the wishes of their rulers. It is surely no mere chance or hazard that has led the Celts of Ireland and of Scotland, of Cornwall and of Wales, to adopt varying forms of religion, which have only this in common—that none of them is supported or countenanced by the State. And it may well be that that racial instinct led the Welsh Catholics of Elizabeth's time to distrust the use of force, and to combat with energy and with heat the policy of the Jesuit or Spanish faction.¹

note to A. 9 says: "He began by sowing discord between her (*i.e.* the Queen of Scots) and her advisors, and persuaded her that they, and Dr. Allen and the Jesuits, aimed at conquering England and Scotland for the King of Spain under her name, and so succeeded in getting her to forbid anyone to communicate with her, except through Morgan and Chas. Paget. He also introduced division among the English Catholics, being amongst those that maintained that matters might be remedied without the employment of foreign forces, the chiefs of which part are the bishop of Cassano (Dr. Owen Lewis) in Rome and the bishop of Dunblane, and they, with Morgan, persecute Cardinal Allen and the Jesuits and others who wish to reduce England by the forces of His Majesty (of Spain). He is a partisan of the bishop of Cassano against Cardinal Allen and the Jesuits. He (Morgan) frankly confesses that he would be sorry to see his country subjugated by foreigners, and especially Spaniards."

¹ Cf Rhys's *Celtic Heathendom*, p 227.

It would be easy to adduce numerous proofs of this essential divergence between the Welsh and the English Nationalist Catholics and the Jesuits.¹ One bit of evidence is worth citing for the interesting glimpse which it gives of Dr. Griffith Roberts in Cardinal Borromeo's palace in Milan. Our informant again is

¹ It is extraordinary how nearly every Welsh Catholic on the Continent in the latter half of the sixteenth century was ranked among the opponents of the Jesuits. The attitude of Hugh Griffith and Rhosier Smith has already been noted. The part played by Owen Lewis and Thomas Morgan will be dwelt upon again. A Welshman named Bennett was the leader of the anti-Jesuit faction in the Roman College in 1594. But even more obscure Welshmen were opposed to the Society of Jesus, e.g. one of Cecil's spies writes in 1601 of Ithell, a native of the diocese of Llandaff, and a chaplain of Notre Dame, who afterwards (if he be the same as Ishell, chaplain of Notre Dame) helped John Roberts to found the Benedictine College at Douay: "Ithell, about 50 (at Arras), who some time was favoured of the Jesuits, is now hated, only because he will not be as fastidious as they are" (*v. Foley*, vi. 740). The career of Dr. Parry, "the Jesuit," who made a treasonable speech from his place in the House of Commons, and was hanged for having conspired against the life of the queen, may appear to contradict this general statement. But Parry seems to have been a man of ill-balanced judgment, and the crime which he confessed to was both mysterious and extraordinary. Though he had designs against the queen's life, he not only failed to take advantage of opportunities which offered themselves, but he entered Parliament with the avowed object of avoiding the necessity of using physical force by convincing the House by argument. Parry does not appear to have any connection with other Welsh Catholics, though he stated that he had talked over his designs with Morgan in Paris, and he certainly was not connected with any Catholic conspiracy to bring about an invasion of England by a foreign power. *Vide Froude's Hist. of Engl.* xi. 416; *State Trials*, vol. i.

In 1562 Morris of Clynog, then still at Louvain, wrote that "they are not to be listened to who would persuade us that the English cannot be forced under the yoke of foreign dominions." (*Meyer's England and the Catholic Church*, p. 241). The learned and brilliant German puts this down to Welsh prejudice against the English, and to still burning resentment of a prelate dispossessed of his See.

Anthony Munday, who called on Dr. Roberts at the end of 1578 on his way to Rome.

"In the cardinall Boromheo's pallace," he wrote, "wee found the lodging of a Welshman, named doctor Robert Griffin, a man there had in good account and confessor to the aforesayde cardinall. . . . On Christmasse day wee dined with the doctor Griffin, where wee had great cheere, and lyke welcome. In dinner time he mooved many questions unto us, as concerning the state of Englande, if wee heard of warres towardes, and how the Catholiques thrived in Englande."

Dr. Roberts went on to tell his guest how three Englishmen, who were lodging in the same house with Munday, had designed to invade England, and how the Pope, "even according as they deserved," denied their request and sent them away "without recompense." "The Pope," added Griffith Roberts, "was not to trust to such as they; he well knowes England is too strong yet, and till the people be secretly persuaded (as I doubt not but that there is a good number) and more and more still shall be, by the priestes that are sent over daylie." ¹

Here we have, crudely and imperfectly set down by a hostile hand, the line of policy which was advocated by the Welsh Catholics on the Continent. They wanted England to be "secretly persuaded" by priests, not subdued by soldiers.²

¹ *The English Romaine Life*, Harl. Misc. vol. vii.

² Dr. Roberts in 1596 wrote to Rhosier Smith in Paris a Welsh letter (see App. A. of the writer's "Welsh Catholics" in the *Cymmrodorion Transactions*, 1903) in which he warned him not to cross the Alps and brave the Inquisition at Rome, for that would be his fate "on account of the old feud (cenfigen)."

In 1579 the "physical force" party was in the ascendant. In May Dr. Nicholas Saunders landed with Spanish troops in Ireland. In September Esmé Stuart, afterwards Duke of Lennox, returned to Scotland, an event which led to the execution of the Regent Morton and the temporary eclipse of the Protestant cause. A volcanic energy was agitating the Catholic world. The Society of Jesus, the most marvellous organisation the world has ever seen, was attracting the fiery spirits among the English Catholics. Campion, the inspired preacher—who was soon to seal his testimony with his life—and Parsons, the man of restless activity and wide-embracing schemes, were already among its members. Allen was well-disposed to it. It was bent on carrying on a Holy War against heretical England. The zeal of the Crusaders animated every member of the Society. Hitherto it had sent no missionaries to the dangerous field of England. While the Secularists could point to their martyrs, the Society of Jesus could appeal to no such glorious records of work and suffering for the faith in England. It was accused of putting its sickle in other men's harvest, and of enlisting in its ranks Englishmen who did nothing for their faith or their country. Now, however, it determined to monopolise the glory of regaining England to Catholicism. Parsons and Campion were sent to England in 1580. But it was seen at once that if the Society was to capture the English mission field, it would have to train up missionaries for the work. The racial feud which broke out in the College at Rome happened opportunely, and the Jesuits took advantage of their chance. Father Parsons, who was in Rome at the time, was not the man to miss the real significance of

the Jesuit victory, or the advantages which the Society would derive from the control of the education of the English missionary priests.

During the next eighteen years Father Parsons strove to achieve this object. The College in Rome being in Jesuit hands, the next step was to capture the College at Douay. Dr. Allen, though friendly, was too great a man to be used merely as a tool. It was necessary, therefore, to remove him from his post. At one time Parsons urged that Dr. Allen and Dr. Owen Lewis should be sent with the invading army to England,¹ and with that object in view Dr. Allen was appointed Bishop of Durham. But in 1587 a still better chance offered itself. Parsons had for years been working for the election of an English Cardinal. In 1587—the year before the Spanish Armada—Dr. Allen was raised to the Cardinalate, through the forceful insistence of Parsons² and the influence of the King of Spain,³ and

¹ Parsons to the Cardinal of Como, 1581. "It would also, we think, be very useful if His Holiness were to summon to Rome Dr. Owen Lewis, Archdeacon of Cambrai, an Englishman who is at Milan, and is very well acquainted with English affairs. If this man were sent from Rome to Spain under some pretext, and so went thence with the army to Scotland to meet Allen, who might start from here, it would be a great help to the cause; for though this Dr. Owen, on account of the differences which have lately arisen between the Welsh and the English, he being a Welshman, does not stand very well with the greater part of the English, nevertheless he is a grave and prudent man. If united to Allen, who possesses the hearts of all, he would be of no small assistance, especially with his countrymen, the Welsh" (*S.P.O.*, "Rom. Transcripts," vol. xv. No. 477; Taunton's *Jesuits*, 99). Allen was created Bishop of Durham in 1583, but never accompanied any of the expeditions to Great Britain or Ireland.

² Allen stated, in a letter to Dr. Bayly, that "under God" he owed his Cardinal's hat to Parsons (Knox, *Records*, ii. p. 299c). "*Proxime enim sub coelo pater Personius fecit me Cardinalem.*"

³ Knox, *Records*, ii. pp. 253, 270, 292, 293; Taunton's *Jesuits*.

in spite of the opposition of the Welsh, Scotch, and French factions.¹ The Cardinal was succeeded in Douay by Dr. Barrett, and afterwards by Dr. Worthington—two men who were under the influence of Parsons.² Several other English Colleges or Seminaries were subsequently founded by the indefatigable Jesuit in various parts of Europe—Valladolid in 1589, Seville and Madrid in 1592, and St. Omer in 1594.

¹ T. C., in his article on Owen Lewis in the *Dictionary of National Biography*, says that "little reliance can be placed on the story quoted by Wood from *The State of the English Fugitives* (1596) to the effect that Lewis, as a strenuous foe of the Jesuits, headed a faction against Allen, or that Lewis and Allen were rival candidates for the cardinalate which fell to the latter." But this was the view, not only of the author of the pamphlet, but of all his contemporaries. The personal friendship between the two men seems never to have been broken or even impaired, but it is clear that they were at the head of rival factions. Allen said, a little before his death, after a conversation with Dr. O. Lewis, "Well, Abraham and Lot were both good men, but their shepherds could not agree" (Knox, *Records*, i. c. iii.). It is certain that Lewis was friendly with Leslie, the Bishop of Ross, "whose flattering letters to Queen Elizabeth had given great dissatisfaction" (Plowden's *Remarks*), and with T. Morgan, the arch-enemy of the Jesuits and the Spanish faction, who according to the account given in the *English Fugitives*, did his utmost for Dr. Owen Lewis. For other evidence of Lewis's hostility to the policy of Allen and the Jesuits, see *Dom.*, *Eliz.*, vol. ccxxxix. 87 (A.D. 1592); *ib.* 116, vol. ccxlii. 121 (where Lewis is called the agent of the Scottish nation); *ib.* 6. It is also certain that at Allen's death, the Cardinal's friends supported either Parsons or Stapleton, and opposed Lewis. Cardinal Sega, in his Report in 1596, confirms Lewkenor's account. "The Bishop of Cassano," he said, "deeming the intimate relations of Allen with the Fathers of the Society a reflection on himself, proceeded to put himself in opposition to Allen, the Fathers, and the Seminaries, and to form a faction against them" (Foley's *Jesuits*, vol. vi.). *Vide* also Dr. Gifford's letter, *Cal. S.P.*, *Dom.*, *Eliz.*, cccli. 66; Ely's *Briefe Notes*, 94-96.

² See Worthington's letter to Parsons, Tierney's *Dodd*, vol. v. App. p. iv.

The Society of Jesus, indeed, seemed to have triumphed over all its opponents. It enjoyed a complete monopoly in the training and education of English priests; its two most persistent opponents, Thomas Morgan and Owen Lewis, were powerless to stem the tide of its rising fortunes. Thomas Morgan, after languishing for years in the Bastille, was afterwards imprisoned by the Duke of Parma in Flanders, at the instigation—if we may believe a contemporary writer, who states that he was in Flanders at the time¹—of the Jesuits. When the death of the Duke opened once more his prison doors, he came out a broken man, and retired to Rome, to the house of his old friend, Owen Lewis, now, since 1588, the Bishop of Cassano in Naples.² He lingered on for years longer, and was concerned in one or two more plots; but though he was still experienced in “driftes of policy,” and ready as ever to give his enemies “a secret blow,”³ his old power and energy were gone. Owen Lewis, though raised to a Neapolitan See in 1588, seems to have lived for the most part in Rome and Milan till Cardinal Borromeo’s death in 1594. He was becoming old, and though high in the Pope’s favour, and ever mindful of old wrongs done to him and his nation,⁴ he had to stand aside while the Jesuits swept onwards in their resistless progress.

Fair as their prospects appeared, there were clouds, as yet no bigger than a man’s hand, on the horizon.

¹ Lewkenor’s *State of the English Fugitives*.

² *Ibid.*

³ *Ibid.*

⁴ The character given him by W. W. in *A Sparing Discovery* (1601), “A milder man lived not, or one more apt to put up with and forgive all injuries,” can hardly be sustained by what is otherwise known of him.

The Spanish Armada had disastrously failed,¹ and a staggering blow was dealt to the "physical force" party, from which it never wholly recovered. Parsons, however, was not discouraged or dismayed. Few understood at the time how completely the power of Spain was shattered. Parsons in 1594 wrote a book to vindicate Philip's title, as a descendant of John of Gaunt, to the throne of England.² His friend, Sir Francis Englefield, two years later, still looked to Spain for deliverance.³ Cardinal Allen, as he came once more into intimate contact with his old friend, Owen Lewis, began to draw away from the Jesuit faction after the failure of the Armada. He never actually quarrelled with them, but it is certain that in his last days "he began to leave the path" which was mapped out for him by Parsons.⁴ But the greatest source of

¹ In 1588.

² *The Book of Succession*.

³ Englefield's letter to Philip II. "Without the support and troops of Spain it is scarcely probable that the Catholic religion will ever be restored and established in that country (England). Even the English seminaries, powerful as they are in preparing men's minds for a change, must fail to complete their object without the aid of temporal force" (Tierney's edition of *Dodd*, vol. iii. 49). In 1599, Sir Henry Neville wrote to Cecil: "I find there has grown great dissension among our Papists abroad, one faction, of which Parsons is the head, depends on the Jesuits, and wishes the overthrow of our present state by conquest or other means: of the other, consisting chiefly of laymen and gentlemen, Charles Paget is the head, as he would not consent to conquest by a foreign Prince" (*Dom.*, Eliz., 271, 29).

⁴ Father Aggazzari's letter to Parsons on Allen's death: "When he (Allen) began to leave the path, in a moment the thread of his plans and life were cut short together" (Sept. 25, 1596, Knox, *Douay Diary*, p. 387). W. W., in *A Sparing Discovery* (p. 34), says: "The most blessed Cardinall Doctor Allen . . . in the end passed not untouched by the Jesuites, because in very deede he daily saw further into them then he had done, and therefore not only disliked, but disfavoured divers

opposition to the Jesuits was the old feud between them and the Welsh. The racial dissensions which gave the control of the Roman College to the Jesuits in 1579, made its possession no easy sinecure. Father Mush, one of the leaders of the English malcontents in the original trouble, stated in after years that in the seven years he was there he witnessed as many open outbreaks.¹ So bitter was the feud in 1582 that perfervid Hugh Griffith had to be taken away by his uncle "*ad salutem juvenis et collegii pacem.*"² One Rector succeeded another,³ but the disturbances continued. At the death of Allen in 1594 the dissensions were renewed. The leader of the Welsh faction was John Bennett,⁴ the author in after days of many anti-Jesuit

their proceedings, specially towards his latter end. . . . Upon the death of this so memorable a person they openly triumphed, and . . . sayd that God had taken him away in good time." Cf. Paget's *Answer*, p. 20.

¹ Mush's *Declaratio Motuum*. Cf. Ely's *Briefe Notes*, pp. 73-84.

² Letter of Allen to Aggazzari (Knox, *Records*, vol. ii. 112).

³ From 1579 to 1598—when Parsons became Rector for the second time—the Rectorship was held in turn by Aggazzari, Holt, Parsons, Cresswell, Vitelleschi, Fioravanti and Aggazzari (2).

⁴ Cardinal Segá's Report (quoted in Foley's *Jesuits*, vol. vi.). In addition to Bennett, William Ellis, Erasmus Sanders, Humphrey Hughes, and Richard Powell are mentioned as among the disturbers. One of Cecil's spies, in 1601, stated that "Richard Powell, of Myllayne and ——— Bennett, now priest in England, curbed him (Parsons) and made their complaints to the Cardinals of misgovernment of the College" (*Dom.*, *Eliz.*, vol. xxxiv. Addenda). Among the students' complaints, according to Cardinal Segá, was that "Certain libels were circulated of late among the students, which kindled anew the old quarrel between the English and the Welsh." There is no doubt that Hugh Griffith, the leader of the Welsh faction of 1579, was in communication with Edward Bennett during the continuance of the disturbances down to 1598, when Parsons finally appeased the factions. (*Vide Archpriest Controversy*, Camden Society,

pamphlets, and one of the most pronounced opponents of the Jesuit policy in the next century.

The Jesuits rightly regarded Owen Lewis as their foremost enemy. Cardinal Sega, in his report on the Roman disturbance in 1596, roundly states that to Lewis "we trace all the quarrels and disturbances of which the College has been the theatre."¹ He was the intimate friend of Thomas Morgan; he was a correspondent of Dr. W. Gifford, afterwards the Archbishop of Rheims, and Primate of France. Gifford, though an Englishman, seems to have had Welsh connections, for we find Thomas Vaughan, of Courtfield—who died of ill-usage at Cardiff in 1641—described as his nephew.² Gifford, also, was of the Bishop's faction, and had been introduced into Cardinal Borromeo's household by Dr. Owen Lewis.³ In 1595, when Gifford

i. 10; Ely's *Briefe Notes*, p. 156; Tierney's *Dodd*, iii. p. lxxx.; Taunton's *Jesuits*, 227.) I have assumed that the leader of the Welsh faction was John Bennett, and not his brother Edward, though I have no positive proof of the fact. The two "noble brothers," as they are called by Dr. Gifford, were prominent anti-Jesuits in the "Wisbeach stirs" and the "Appellants controversy." (*Vide* Gillow's *Dictionary*; Law's *Conflict of Jesuits and Seculars*.) Dr. Barret, of Douay, in a letter of Sept. 26th, 1596, to Parsons, calls one of the brothers "the greatest dissembler and most perilous fellowe in a communitie that ever I knew" (*Douay Diary*, p. 386). John Bennett published a pamphlet, *A Censure upon the Letter which Father Parsons writ the 9th of October 1599*; *The Hope of Peace*, which was printed at Frankfort 1601; and other anti-Jesuit publications. In 1621 he was despatched to Rome, as agent of the clergy, to petition the Pope for a bishop. Edward Bennett was nominated in the same year with William Bishop for the episcopate, and, on the death of Colleton, became dean of the Chapter (Law's *Conflict*, Introduction, p. xxxvi.).

¹ V. Foley's *Jesuits*, vol. vi. Cf. *A Sparing Discovery*, p. 32.

² V. Challoner's *Memoirs*; Austin's *Christian Moderator*.

³ Sega's Report (Foley, vol. vi.).

was Dean of Lille, we find him writing from the Nuncio's house at Brussels to Throgmorton (another anti-Jesuit) ¹ after the publication of Parsons' book vindicating Philip of Spain's title to the English crown. "I have made an abstract of Parsons' book," he says, "and given it to the Nuncio, who is mad at Parsons, and bid me write to the Bishop of Cassano, and assure him that Parsons had ruined himself." ²

In the same year appeared an anonymous pamphlet describing "The State of the English Fugitives" on the Continent. After dividing the exiles into four factions,³ the writer goes on to say: "But above all these there is one over-ruling faction that hath drawn them into mightie partialities and strange extremities one against another. The originall whereof sprong out of the Romish Seminarie between the English and the Welsh; either partie had for favourer and protector a man of great authoritie to which it leaned, Doctor Allen for the one, and Doctor Lewis for the other, a man verie wise and learned, and by reason of his age, gravitie, and long continuance in those parts of great authoritie in the Court of Rome, but always a verie

¹ *Ib.* Cf. Cecil's list (*Dom.*, Eliz., vol. ccxxxviii. 181).

² Hume's *Treason and Plot*.

³ "The one . . . pretend to be great statesmen and deepe politicians. There is a second sort, wholly devoted to the following and faction of the Jesuites, serving them as their espials and instruments in whatsoever they imploy themselves. . . There are others whom the rest generally in derision call by the name of patriots. These indeed . . . are men of the greatest temperance and best behavior, who howsoever they are in religion contrarily affected, yet you shall never heare them speake unreverently of her Majestic. . . But of the rest, the fourth and last are the best fellows, for they flie but a very low pitch, being men utterly voide both of learning, wit, and civilitie" (pp. 48-9).

bitter enemie of the Jesuits. In fine each nation with all vehemencie laboured for the presidentship and superioritie one over the other.”¹ The writer then goes on to describe how inveterate was the racial feud which was kindled in 1579, and how it had survived till 1595. A letter which Parsons wrote in July, 1598, to Father Garnet confirms this estimate of the far-reaching effects of the rebellion of the English students against Dr. Morris of Clynog. “A third cause also there was,” he says, dealing with the continued disturbances in the College, “no lesse important perhaps than any of the rest, or more than both together, which was a certayne disgust given at the first foundation of the colledge unto a certayne principall man of our nation and his friends then resident in Rome, who afterwards . . . was ever eyther in Re or in opinion a backe unto them that would be discontented, to which was adjoynd in these latter yeres (as appereth by their own writings) another fountain of fomentacon ffrom fflaunders that nurished this humor and wrought much woe to the college wholly.”²

Parsons afterwards stated that he would never allow two Welshmen to remain together in the College at Rome “during such time as he was Rector, for if there were three they would set the house on fire.”³ And as late as 1626, when Lewis Owen, the spy, published his *Running Register*,⁴ it is plain that his Welsh sym-

¹ *Ib.* p. 50.

² Parsons' letter to Garnet, July 12 and 13, 1598. *Archpriest Controversy*, Camden Society, i. 27.

³ *Dom.*, Eliz., vol. xxxiv. Addenda.

⁴ Lewis Owen was probably a native of Merioneth (*vide* the dedication to his *Unmasking of all Popish Monks*). He entered Christ Church, Oxford, in 1590, at the age of eighteen. He left

pathies embittered and envenomed every reference to the Jesuits, while his account of Owen Lewis and the other Welshmen is always friendly, if not flattering.

It was small wonder that, when Allen died in 1594, the rival factions should have fought for the vacant Cardinal's hat. Owen Lewis, who had once before been baulked in his ambition, entered the struggle with a keenness which was neither edifying nor dignified.¹ Parsons and the Jesuits did their utmost to defeat his candidature.² The action of forty-three

without a degree and entered the Society of Jesus at Valladolid (*Athen. Oxon.* Wood, ii. 480, though his name does not appear on the books). He seems, however, to have taken an intense dislike to the Jesuits, which was probably accentuated by the hostility of John Roberts to the Society. He was in Valladolid in 1605, in Rome (as a spy) in 1610, and in Switzerland in 1612. He was acquainted with French, Italian and Spanish, and in his books (*Running Register*, 1626; *Unmasking of all Popish Monks*, etc., 1628; *Speculum Jesuiticum*, 1629) he is not ashamed to avow the real nature of his profession. He died in 1629. As he published a book called *Catholique Traditions* in 1609, it may be inferred that he was not a spy at that date.

¹ V. Lewis's letter to Dr. Humph. Ely in 1595 (Ely's *Briefe Notes*, p. 95). As early as 1589, Lewis was angling for the Cardinalate. He, or Morgan on his behalf, sent the Carthusian Prior (John Arnold), "a Welshman," to persuade King Philip II. to procure his promotion to that dignity (*Dom.*, Eliz., ccxliii. 6). After showing how the Bishop had despatched the Bishop of Dunblane to Scotland, and how the Scotch wished for nothing for themselves just then, Arnold went on to say: "In the meantime they (*i.e.* the Scotch) only ask your Majesty to forward and promote your Bishop of Cassano, and that you will not rest content until they have made him a Cardinal, in which position he will be the more powerful to serve your Majesty. There is no man in and out of England of English birth so worthy, learned, virtuous, and dexterous in managing matters of importance as he is. Since he was exiled twenty-eight years ago for his faith he has always been employed in the ruling of dioceses and provinces" (*Spanish State Papers*, May 26, 1589, pp. 542-3).

² Lewis's letter to Dr. Ely, in 1595 (Ely's *Briefe Notes*, pp. 95-6). "We have lost our good Cardinal Allene. He made me executor

of the students at the Roman College in 1594 did not tend to lessen their opposition. The students sent a respectful supplication to Dr. Lewis, deploring the want of bishops or ordinaries in England, and insisting on the importance of the distribution of faculties being placed in the hands of impartial and experienced persons conversant with English affairs, but above all not in the hands of the Jesuits. They finally implored Dr. Lewis to take the duty on himself.¹ Cajetan, the Cardinal Protector of the College, seconded their petition to the Pope. The petition was unsuccessful, but it showed Parsons the danger that threatened the Society from the settled hostility of the Bishop of Cassano, and made him more determined than ever to oppose his elevation to the College of Cardinals. Sixtus V. did not fill the vacancy, but his successor, Clement VIII., decided to offer the Cardinal's hat to Dr. Lewis. Before the Consistory, at which the formal election would take

of his will with three Cardinalls, and we ever have been frends, though some evill disposed did seeke to separat us for their owne gaine and ill purposes. And now there is such a stincking stirre in Flanders, Spaigne and Rome, to make Father Parsons Cardinall, and so by consequente to exclude me, that it is allmost incredible. But yet it is so, thoughe it be lick to have no effect, but the discovering of Ambition, the blotting of that blessed Religion, and discord among our nation and persecution against me least I step before and stand betwene them and the fire. The doers of this are but two or three of our nation, which tumble all up and downe. All the rest, best and wisest, do love and honor me. And in this Court it is merveilled at of strangers high and low. They say I am an Italian, that I passe not for the Nation, that I am Britannus and not verus Anglus. That I will never returne into Inglande if it weare Catholick : false impudent lies and slanders. . . . Indeed I am 61 years old, and am not therefore like to see Ingland. . . . I seeke not to be Cardinall, because I know not, '*An ille status expedit et saluti animae meae conveniat*'.''

¹ *Vide Law's Conflict*, Introduction, p. xxix.

place, could be held, the Bishop died, in October 1595, having just missed attaining the summit of his ambition. Death once more had come to the aid of the Society. The last obstacle in Parsons' way seemed to have disappeared. He was left, the one strong man among the Catholic exiles—bold, daring, experienced, a firm friend and a bitter foe. Another disturbance in the Roman College gave Parsons a unique opportunity of displaying his tact and power. He called the malcontents together, he reasoned with some and expostulated with others. His knowledge of men and affairs gave him a dominant advantage over the callow and inexperienced youths. They were charmed by his courtly manners, his sweet reasonableness, and his tactful sympathy. They gladly yielded to his persuasions, and Parsons won a signal personal triumph. In 1598 he was appointed, for the second time, Rector of the College, a position which he filled till his death in 1610.

Parsons, in 1598, occupied a strong and seemingly impregnable position. His old foes were dead or broken ; he was in Rome, holding an important office, and possessing the ear of the Pope and the Cardinals' College. He was trusted by the King of Spain, and could always depend on his support in an emergency. He was the founder of most of the English Colleges on the Continent ; Douay was under Jesuit influence ; he himself was Rector of the Roman seminary. The avenue to the English mission field lay through the Society of Jesus. One thing more was wanted. The English students at Rome had deplored, in 1594, the lack of bishops in England. Parsons decided on a daring and novel experiment. In March, 1598, he

induced the Pope to appoint Father George Blackwell, a man entirely under his influence, Archpriest over the Catholic clergy in England. It is not for a Protestant writer to dwell on the embittered controversy which followed—a controversy whose merits are still to some extent in issue among modern Catholics. The “Wisbeach stirs,” or the dissensions which broke out in 1595 between the Jesuit prisoners at Wisbeach Castle and the Secular priests who were their fellow-prisoners, were now repeated and emphasised in the “Archpriest controversy,” which finally led to the famous appeal to Rome of the Secular clergy against the domination of the Jesuits. All that need be recorded of these squabbles here is that the Welshmen engaged in either dispute were invariably arrayed against the Jesuits.¹

But these efforts of the Welsh Catholics, consistent and long-continued though they were, would probably

¹ *E.g.*, in addition to the two Bennetts, Roger Cadwallador, who was afterwards hanged, in 1610, at Leominster, was one of the “appellants” in 1600. One of the most interesting of the Wisbeach prisoners was Jonas Meredith, one of the leaders of the Welsh faction in the Roman College in 1579 (*Dom.*, Eliz., ccxli. 26; *ib.* 1596; *ib.* cclvi. 91). Meredith was committed to prison in 1586, and opposite to his name Thomas Philipps wrote “worthy to be hanged” (*Dom.*, Eliz., cxcv. 72, Dec. 1586). He must have been arrested almost immediately upon landing in England, for earlier in the year Thomas Rogers wrote to Walsingham from Paris: “Morgan and Paget have sent Jonas Meredith, at the Queen of Scots’ expense, to Rome to salve their credit, impaired by Arundel and his party. He sent articles to get Meredith into the Inquisition” (*Dom.*, Eliz., vol. xxix. p. 167, Add.). Meredith seems to have escaped the Inquisition only to be imprisoned in England. In 1588, Anthony Bacon begged for his release from Walsingham. “Powel and Jonas Meredith of Wales,” he wrote, “prisoners only for religion” (*Dom.*, Eliz., vol. xxx. p. 251, Add.). But Meredith was not released, for he is mentioned as being at Wisbeach in 1592. *Vide* also *S.P.O.*, *Dom.*, Eliz., vol. ccxxxviii. No. 181.

have been ineffectual, but for the revival of the English Benedictine Order in the early years of the seventeenth century. The life and labours of John Roberts, monk and martyr, have at last received something like due recognition at the hands of Catholic historians,¹ though none of them seems to have realised how far racial feelings and prejudices dictated his course of action.

John Roberts was born in 1575 in Trawsfynydd in Merionethshire. At St. John's College, Oxford, he was contemporary with two men who afterwards became famous ecclesiastics. One of them was John Jones, who was born in the same year as Roberts, in Llanfrynach in Brecknock, and who was afterwards known "in religion" as Father Leander. The other was Jones's room-mate,² William Laud, afterwards Archbishop of Canterbury. Another of his contemporaries (and probably a friend)³ at Oxford was David Baker, also

¹ *Vide, e.g.,* Bede Camm's Life; *Downside Review*, vol. xiv. 44 seq.; Taunton's *English Benedictines*.

² He is mentioned as Laud's "chamber-fellow" in Laud's trial (*Works of Laud*).

³ Baker probably knew Leander Jones—for Llanfrynach is not far from Abergavenny. It is certain that they were, in after life, intimate friends. As Leander was in the same College as John Roberts, and a room-mate of Laud's, it is more than probable that the four were familiar at the University, though the three were senior in academical standing to John Roberts. Roberts matriculated at St. John's in 1595; Leander Jones in 1591; Baker in 1590. Leander, however, became Fellow of the College, and was in residence when Roberts matriculated. In spite of their English surname, the Bakers of Abergavenny were an old Welsh family. Their original name was Sitsilt (Cecil), and they were descended, like Sir W. Cecil, from Robert Sitsilt, of Allttrynys. Roger Sitsilt married Anne, the daughter of Sir John Scudamore, and the granddaughter of Owen Glyndwr. Their son Thomas adopted the name of Baker. (*V. Book of Golden Grove*, c. 655.) Father Augustine Baker was therefore eighth in descent from the illustrious Welsh patriot.

born in 1575 at Abergavenny, where his father was Lord Abergavenny's steward.

It is curious, and not altogether unprofitable, to reflect what influence these four friends exercised on each other's subsequent careers. They were, all four, men of great capacity and profound learning. As yet they were Protestants in name, but Catholic in feeling and sympathy.¹ Though outwardly conforming, they became suspects even in Oxford, tolerant though the University has ever been of any leaning towards Rome. Leander Jones was sent down from the University on suspicion of being a Catholic. Soon afterwards, in 1596, he met Father Gerard,² the celebrated Jesuit, who effected his conversion. He sailed for the English College which had recently been established by Parsons at Valladolid, but on the way out he changed his mind,³ and after living in Spain for two years he joined the Benedictine Order.

John Roberts⁴ and David Baker left Oxford to study law in the London Inns of Court. Roberts is described as "a Lawyer's clerk in Furnivall's Inn,"⁵ and it would seem, therefore, that he intended to be called to the

¹ The *Liber Primi Examinis* of Valladolid states that John Jones "venit huc 13 Decembris 1596, natus in comitatu Herefordiensi honestis parentibus . . . studuit Oxonii . . . ipse etiam semper corde catholicus." (V. Camm's *Bened. Martyr*, p. 286.)

² Father Gerard at the time was a prisoner in the Chink.

³ The story goes that while on board the vessel he saw a vision which induced him to join the Benedictines. But the story cannot be entirely accepted, for Leander arrived at Valladolid in Dec. 1596, and only joined the Benedictines in 1598.

⁴ Lewis Owen's *Running Register*. Roberts was only two years in Oxford, and therefore left in 1597. Baker commenced eating his dinners at Lincoln's Inn (removing thence to the Temple) a year or two previously.

⁵ Lewis Owen's *Running Register*.

Bar. In 1598, while on a visit to Paris, he, like his friend Leander Jones, was converted by the Jesuits. Thence he proceeded to the College at Valladolid.¹ It was not long, however, before he conceived the same aversion to the Society of Jesus as nearly all the Welshmen of that age seem to have entertained. Lewis Owen, the spy,² tells the story with dramatic vividness :³

“ In the latter end of Queen Elizabeth there was but one English monk living in the world (as the Papists themselves do report). . . . And therefore many of the English fugitives, residing in forraine countries (who were in great hopes to have a full restauration of their religion after the Queen’s decease), viz., Dr. Gifford, now Archbishop of Rheims in France, Dr. Bagshaw, Dr. Smith, Dr. Stephens, and many other Secular Priests (who were of a faction against the Jesuits) consulted together how to oppose and withstand their ambitious encroachments and usurping authoritie. . . .

¹ Roberts entered the College at Valladolid on Oct. 18th, 1598.

² It is certain, from internal evidence, that Lewis Owen was friendly disposed to his countryman John Roberts. Dom. Bede Camm and Taunton (followed by the *D.N.B.*) assume that the pedigree of John Roberts, of Llanfrothen, given in Lewis Dwnn’s *Heraldic Visitation* is that of the Benedictine monk’s father, and that John Roberts’s son-in-law (the husband of his daughter Blance) Cadwallador Owen is identical with Lewis Owen, the spy. The assumption is however believed to be ill-founded. The identity of John Roberts will be found discussed at length in the writer’s article in the *Cymmrodorion Transactions*, for 1901-2, App. F. A facsimile letter by John Roberts is also given. It is proved that the martyr had no relationship with John Roberts of Llanfrothen, and it is suggested that he may have been the grandson of John ap Robert ap Howel of Dol-y-ddwyrid, Festiniog, whose pedigree is given in Lewis Dwnn’s *Heraldic Visitation*.

³ Lewis Owen’s *Running Register*, which contains a very full and detailed account of the incident.

They solicited many of the English students that then lived in any of the English colleges or seminaries in those foreign parts to become religious monks of the Order of St. Benet. . . . Whereupon one John Roberts, who . . . was then a student at the English College at Valladolid, by the perswasions of these men, went out of the same college. . . .”

It is perhaps impossible now to discover how far Dr. Gifford and the rest were directly responsible for the severance of John Roberts's connection with the Jesuits. The probabilities are strongly in favour of the statement which is roundly made by Lewis Owen. We know that Dr. Gifford was keenly opposed to the Jesuits.¹ Dr. Smith, as we have seen, was bitterly detested just about this time by Parsons.² The Jesuits themselves looked upon the English fugitives in Flanders as “a fountayne of fomentacon,”³ and later on Parsons ascribes the foundation of the Benedictine College at Douay to anti-Jesuit machinations.⁴ The fact that the two Oxford Welshmen—Roberts and Leander Jones—should have left the Jesuits and joined the Benedictine Order about the same time⁵ is surely not without significance.

¹ *Vide, e.g.*, Owen's *Running Register* and Gifford's letter to Throgmorton on March 10th, 1595, which has already been cited. Gifford had gone to Rome as Allen's chaplain when the latter was raised to the Cardinalate in 1587, and had been introduced into Borromeo's household by Dr. Owen Lewis.

² *State Papers, Dom.*, Eliz., vol. xxxiv., Addenda, n. 42, ii.

³ Parsons to Father Garnet, July 12th, 1598 (*Archpriest Controversy*, Camden Society, i. 27).

⁴ Add. MSS. Brit. Museum, No. 21,203, folio 16, quoted in Law's *Jesuits and Seculars*, cxxv.

⁵ Roberts joined the Order of St. Benedict at Valladolid in 1599; Leander in October of the previous year at St. Martin's Abbey, Compostella.

Upon leaving the College, Roberts took refuge in a Benedictine Abbey close by. The Jesuit fathers pursued him with complaints against his character. He was accused of heinous sins, and the Abbot who had sheltered him became alarmed. Roberts assured him that the charges were false, and that his accusers would receive him back in the College with open arms if he were willing to return. He was bidden to put his assertion to the test. He did so, and was welcomed back with gladness. The Abbot was convinced that Roberts had been traduced, and when he fled once more from the College, the Abbey gates were thrown open to him, and he was admitted into the Order of St. Benedict. Presently the Benedictines determined to send missionaries to England. "Whereof Father Roberts was the first that had his mission from the Pope . . . which made him not a little proud that hee should be a second Augustine Monke to convert and reconcile his countrymen to the Roman Anti-Christ. . . . At length (having obtained, or at least usurped—for he was of an aspiring spirit—the title of a Provincial¹ of the English Benedictine Monks then resident in England, who were not many) he became very famous among the English Papists."²

But the revival of the Benedictine Order in England was soon seen to be impossible so long as all the English Seminaries on the Continent were in the hands of the Jesuits. Roberts, therefore, with that instinctive tendency to found a college which marked the Welsh

¹ The title of "Provincial" was only used at a later date, and John Roberts never actually assumed it (*v.* Taunton's *English Benedictines*, vol. ii.), but John Roberts probably exercised authority over the other Benedictine monks in England.

² Lewis Owen's *Running Register*, p. 89.

Catholics of that age as well as the Welsh Protestants of our day, determined to establish a Benedictine Seminary at Douay. One of the men who directed his attention to this work was John Ithell, a Welshman, who was a chaplain of Notre Dame.¹ Among his most powerful supporters were Dr. Gifford, Dean of Lille, and his old college contemporary, Leander Jones. In 1605 the Benedictine College of St. Gregory's at Douay was opened. The effect was great and far-reaching, if we may accept the conclusions of modern Catholic writers. "The securing of the foundation of the monastery," according to Mr. Edmund Bishop,² "was the breaking, the breaking beyond the hope of repair, of the net that with steady, long skilled, and inexorable hand, was being drawn round the clergy to render them helpless captives." "The establishment of St. Gregory's once for all broke down," says the most recent historian of the English Benedictine Order,³ "the monopoly hitherto existing, and by degrees the Clergy emancipated themselves"; and the same writer goes on to say that "in the well-nigh three centuries that have passed since its foundation, St. Gregory's can point to a past, taken all in all, such as many an ancient abbey might envy."⁴ That the revival of the Benedictine Order, and the establishment of St. Gregory's, were the culmination and final embodiment of the Welsh protest against the

¹ He is probably identical with the "John Ishell" who is sometimes mentioned in Catholic writings. Ithell was a native of the diocese of Llandaff, and was ordained in 1581. Foley, vi. 730; Welldon's *Notes*; Taunton's *English Benedictines*.

² *Downside Review*, vol. xvi. p. 34.

³ Taunton's *English Benedictines*, ii. 67.

⁴ St. Gregory's, Douay, was the predecessor and parent of St. Gregory's Downside.

Jesuit policy is clear. Immediately Parsons heard of the project of founding the College at Douay, "he drew up a memorial setting forth, as usual, the crimes of his adversaries. They were men, he said, who were notorious for their share as students in the rebellions and disorders of the Roman College. They had entered among the Benedictines only to vex and oppose the Jesuits. They had, in England, sided with the Appellants (*i.e.* in the Arch-priest controversy), they were in treaty with an heretical Government, and one of them at least had defended the oath of allegiance." ¹

When we remember that "the rebellions and disorders of the Roman College" were due to the Welsh and English feud, that the Bennetts—the leaders of the Welsh faction at Rome in 1594-6—were active supporters of the appellants, that the two most prominent of the Benedictine converts were Roberts and Leander Jones, and that they were also mainly responsible for the establishment of St. Gregory's, it will be easy to understand the settled aversion of Parsons to Welsh students at the College at Rome. Nor can there be any doubt that the Benedictines were opposed to the employment of physical force for the conversion of England. Lewis Owen, the spy, was perhaps at this time in the inner counsels of the monks. His baseness had not been discovered, and he was likely, as the fellow-countryman and neighbour of John Roberts, to be entirely trusted. In his *Unmasking of Popish Monks* he says: ² "Our new upstart English Benedictine monks would have the world believe that their Order first planted the Christian religion in this land, and

¹ Quoted in Law's *Conflict of Jesuits and Seculars*, cxxv.

² P. 12 (published in 1628).

that the monks of their Order were ever godly and religious men, and therefore not to be ranked with the Jesuits, who are great Statesmen, for they (good monks) meddle not with matters of state, or with king's affaires."

John Roberts had done much, but there was one thing which he had omitted to do. There was only one Benedictine monk left in England at the beginning of the seventeenth century, one Buckley, called in religion Father Sigebert,¹ and perhaps himself a Welshman. He was the sole survivor of the Westminster Congregation, the last representative of the oldest Order, the repository of its storied past, and the link which kept unbroken the succession from Augustine of Canterbury. Curiously enough, it was again a Welshman that came to the rescue—David Baker, of Abergavenny, the friend and contemporary of John Roberts and Leander Jones at Oxford.² After leaving the University, Baker was called to the Bar. His uncle, his mother's brother, Dr. David Lewis, was

¹ It is not known where Sigebert Buckley was born. In the list of Wisbeach prisoners he is allocated to Staffordshire, but that may have only indicated that he was ministering in that county. The Buckley family in North Wales gave one or two of its members to the work of Catholic propaganda.

² Baker's mother was a daughter of Lewis ap John, the Vicar of Abergavenny. Baker was educated at Christ Church Hospital, London, and Broadgates Hall College, Oxford. He matriculated in 1590; in 1597 he entered Clifford's Inn and the Inner Temple. In early life he was irreligious, and it was only a sudden shock, caused by a narrow escape from death, that turned his thoughts to religion. He was reconciled to the Catholic Church by a priest named Richard Lloyd. In 1619 he went to Rheims, where he was ordained by Gifford. He wrote *Apostolatus Benedictorum in Anglia* in English, and Father Leander turned his notes into Latin. He was the author of several other works, dealing with asceticism and the history of his Order. He died of the plague in London in 1641.

one of the Judges of the Admiralty, and Baker himself became Recorder of his native town. Being converted to Catholicism, Baker abandoned his profession and gave himself up to a life of prayer and meditation. He became known for the rigour of his asceticism, and for the depth of his historical learning. Coming across Buckley, his legal training enabled him to realise the importance of maintaining the succession of the Order of St. Benedict in England unbroken. On November 21st, 1607, two secular priests and novices—Sadler and Maihew—were received by Father Sigebert as members of the Benedictine Order, and shortly after David Baker was admitted by the old monk. This gave the Order a very real advantage over its rivals. It could now claim descent from the original converters of England. It made it a national English institution. It was henceforward no mere foreign body, owing allegiance to alien ecclesiastics. It was an English Order, and, as such, ready and willing to obey the sovereign in temporal matters. It had its roots in the past, and its history was the history of religion in England. Fantastic and unreal as such a conception may appear to be to some Protestants who appeal to the individual conscience and not to tradition and the authority of the Church, it was one of vital moment and direct significance to men whose every instinct and training had taught them to attach the gravest weight to such considerations. It is not a mere coincidence that in these memorable matters the Jesuits should have been thwarted and checked by the efforts of Welshmen.¹ Their educational monopoly, and their

¹ The part which Father Augustine Baker played in the preservation of the succession of the English Benedictine Order

pre-eminence in England, were irreparably shattered by the timely revival of the Benedictine Order; and that revival was primarily and mainly due to the energy and foresight of the Welsh Catholics. At first, no doubt, the hostility of the Welsh to the Society of Jesus was based for the most part on personal considerations.

But as time went on, and the policy of the Jesuits developed under the forceful guidance of Aquaviva and Parsons, that opposition became more enlightened and dispassionate. Welshmen could not and did not forget the part which the Jesuit Fathers had played in the racial feud which had broken out in the Roman College in 1579. Nor can it be supposed that they were oblivious of the fact that Elizabeth Tudor had Welsh blood in her veins. Just as the Bishop of Ross and the Bishop of Dunblane¹ always supported the pretensions of the Stuarts to the succession of

has not been always understood by Catholic writers. Sweeney, in his *Life of Baker*, disagrees with Father Cressy's statement (*Life of Baker*) that Baker was "the chief instrument in bringing about the restoration of the English Congregation. He was in Italy at the time that Father Preston and Beech were active in their labours for this end. He was not admitted to profession nor aggregated till some time after Fathers Sadler and Maihew" (p. 25). The statement of facts is correct, but Taunton (*English Benedictines*, ii. 72-8) has shown that it was "Baker who had first conceived the idea of the continuation of the ancient English Benedictine line. . . . In spite of difficulties and delays, Baker was destined to be the sole direct link, by immediate profession, between the old Congregation and the new." Father Augustine himself has told how he first conceived the idea by picking up "an old printed 'Turrecremata' upon our rule . . . among the booksellers of Duck Lane" (quoted in Allanson's *M.S. History of the English Congregation*, and printed by Taunton, vol. ii. pp. 74-5).

¹ Vide *English Fugitives*, p. 51; Froude's *Hist. of England*.

the English throne, whether their representative was Catholic or Protestant, so the Welsh Catholics insisted that the English sovereign should be a descendant of the Tudors, whatever his religion might chance to be. This racial affection for the Cymric dynasty gave point and force to the vaguer feeling of distrust of an armed invasion and hatred of Spanish rule, which was entertained by men like Griffith Roberts and Thomas Morgan. As long as Owen Lewis lived, he was looked upon as the embodiment of this feeling and the leader of the Welsh Catholics on the Continent. When his followers were left, at his death, with no effective opponent to Parsons, the genius of three Welshmen raised an insuperable obstacle to Jesuit ambition by reviving the Benedictine Order.

Long and glorious though its traditions were, it could not rival, however, the Society of Jesus, in recent achievements. While the Order of Benedict was represented by a few old and broken monks, the vigorous Society of Ignatius was sowing the land of Britain with the blood of martyrs. From the death of Campion the Jesuits were looked upon as the most devoted and self-sacrificing of the Catholics. The Benedictines had a great history, but they had no modern martyrs. The culminating glory of John Roberts's services to his faith came in 1610. He had been four times imprisoned in England, but he had always been released through the intercession of highly-placed friends. He had been expelled in 1606, but four years later he took his life in his hands and returned. He was arrested not long afterwards in Holborn, over against Chancery Lane, and on December 8 he was hanged, drawn, and quartered at Tyburn. The founder of St. Gregory's

became its proto-martyr.¹ He not only sealed his testimony with his blood, but he opened a new and noble chapter in the annals of his Order. His successor as Prior of St. Gregory's was Father Leander, whose name, says a modern writer, "will ever be illustrious in the annals of the English Benedictines as one of their greatest men—one who was a lover of his brethren and of his country."² For over twenty years he remained Prior of St. Gregory's, and Professor of Theology and Hebrew at the University of Douay. In 1634 he came over to England on the invitation of his old friend and room-mate at St. John's, who had by this time become Archbishop of Canterbury. Laud was anxious, if possible, to secure Catholic re-union by reconciling the Church of England with the Church of Rome. To many earnest and sincere minds such a consummation seemed feasible at the time. No one could be expected to have greater influence with Laud than his old friend Leander Jones; no one could be found with a more conciliatory temper or with a finer sense of the limits to which concession could go. The last service which Father Leander did to his Church was to endeavour to arrange the terms of re-union.³ Before a reconciliation was, or could be, brought about, Leander Jones breathed

¹ George Gervaise is the only monk of the O.S.B. who is mentioned as having been martyred before Roberts. Gervaise died in 1608, Roberts in 1610 (Pollen's *Acts of the Martyrs*, 381). His remains were taken secretly to Douay, with the exception of his right leg, which was intercepted on the way and buried in St. Saviour's, Southwark, by the orders of Archbishop Abbot, and an arm which was buried in his old monastery of St. Martin's Compostella.

² Taunton's *English Benedictines*, ii. 161.

³ For an account of the negotiations, see Taunton's *English Benedictines*, ii. 118-161.

his last, in London, in December, 1635.¹ With him perished the last hope of Laud. Events were marching rapidly. The tide of Puritanism was rising day by day. It had even then reached the shores of Wales. William Wroth, of Llanfaches, was preparing to found the first Puritan Church in Wales, in the heart of Catholic Monmouth.² The death of Father Augustine Baker in 1641 closed this most interesting chapter in the history of Wales. Other Welshmen after him died in the old faith; but he was the last Welsh Catholic who played a large part in the history of Catholicism in England. For some time to come Welshmen remained as sheep without a shepherd. The Great Rebellion left few living witnesses to the ancient religion of Wales; the restored Monarchy, while it sent Philip Evans, the Jesuit, to the scaffold, left Vavasour Powell, the Puritan, to rot in the Fleet Prison. But the light that was kindled by the early Puritans in Wales was never extinguished. It was fanned into fierce flame by the Methodist Revival of the eighteenth century. For a century and a half Wales has been as uncompromisingly Protestant as it was once devotedly Catholic.

It is not my function—even if it were possible—to adjust praise or blame, to judge, and still less to condemn. I have endeavoured to place the facts, not so much on record—for that has already been done—as in their proper setting. It would not become a Protestant writer to take side in Catholic controversies, or to decide between the Jesuits on the one hand and the Welsh

¹ He is said to have died "hated by none but by the puritans and jesuits" (*Athenae Oxoniensis*, ii. 604, Bliss edition).

² Though Wroth began to preach in the Puritan fashion about 1630, he did not actually start a dissenting cause until 1639 (Rees's *History of Protestant Nonconformity in Wales*, p. 41).

Catholics on the other. But Welshmen cannot, at least, be denied the satisfaction of pointing out, not only that the Welsh policy has been justified in our own days,¹ but that even in those far-off days of trial and exile, their countrymen allowed no personal regrets for the land of their birth, no sense of injustice at their undeserved exile, no resentment at the torture and execution of some of their noblest compatriots, no impatient anger at the waste of their lives, to dim their faith in the final inevitable triumph of truth, or to lessen their regard for the freedom of the little nation from which they were sprung, and the larger kingdom with which they had been incorporated.

¹ See, for example, the answers of Father Vaughan, S.J., in his action against the Rock Newspaper Company, reported in the *Times* of June 4, 1902. Cf. Simpson's *Life of Campion*, p. 343; Froude, *Hist. of Eng.* vol. xi. c. 63; Macaulay's *Hist. of Eng.* vol. i. pp. 355 *seq*; Law's *Conflict of Jesuits and Seculars*.

CHAPTER VI

NONCONFORMITY

THE Welsh people, as they gladly welcomed the political union with England, notwithstanding the many grievances which it brought in its train, were equally ready to accept the religious settlement which the Tudors effected. They clung to the old faith and practices, but loyalty to the Welsh dynasty prevented any Pilgrimage of Grace, or even a plot, to be organised in Wales against the Reformation.¹ For over a hundred years after the breach with Rome, no Protestant Nonconformist Church was founded in the Principality. The Established Church had the field entirely to itself. Catholicism decayed and withered through lack of priestly ministrations. Dr. Griffith Roberts in 1585, in his preface to the *Drych Cristionogawl*, bewailed the ignorance of the younger generation. "I hear," he wrote, "that many places in Wales, yea, whole counties, have not a single Christian within them, but live like animals, most of them knowing nothing of righteousness, but merely keeping the name of Christ in memory." The wholesale spoliation of Church property led to a scandalous amount of pluralism. There was no real attempt on the part of the Government to force the beneficed clergy to maintain curates, though a Pluralities Act was passed as early as the reign of Edward VI. Individual

¹ Cf. Owen Edwards, *Wales*, p. 340.

Churchmen, both lay and clerical, did their best to battle against the difficulties with which the Reformed Church was confronted. Sir John Price of Brecon and William Salesbury translated portions of the Bible.¹ In 1563 an Act of Parliament was passed, probably at the instigation of Dr. Richard Davies, the Bishop of St. David's, who had taken refuge in Geneva during the Marian persecution, directing the four Welsh Bishops and the Bishop of Hereford under penalties to prepare a Welsh edition of the Scriptures by 1566. In the same year a patent was granted to William Salesbury and John Waley for the sole printing in the Welsh tongue for seven years of the Bible, the Book of Common Prayer, and the Homilies. The translation of the Prayer Book was undertaken by Richard Davies, and the New Testament by William Salesbury, with the assistance of the Bishop and of Thomas Huet, Precentor of St. David's. The Prayer Book was issued in 1567 and was followed in the same year by the New Testament. In 1588 appeared Dr. William Morgan's Welsh Bible, a monumental work in which he was assisted by Dr. David Powel, the Vicar of Ruabon, Archdeacon Edmund Prys, Dr. John Davies of Mallwyd, and others. Archbishop Whitgift and Gabriel Goodman, a native of Ruthin, who had been appointed Dean of Westminster, rendered pecuniary aid.² Bishop Morgan's translation

¹ Sir John Price's *Yn y llyvyr hwnn* (1546) contained translations of the Lord's Prayer, the Ten Commandments, and two or three verses from the New Testament. Salesbury's *Kynntver llith a ban* (1551) consisted of the Epistles and Gospels as they are found in the Book of Common Prayer.

² For a complete account of the various editions of the Welsh Bible, see Ballinger's *Bible in Wales*, prefaced by an excellent "Address" by Sir John Williams, and an exhaustive "Introduction."

became the canon of Welsh prose, for the Authorised Version of 1620, edited by Bishop Parry, was largely founded on it. Its stately diction, its scholarly accuracy, its pure and idiomatic style, and its sonorous eloquence have never been surpassed in any language. Parry removed some of the "Hebraisms" which were thought to mar Bishop Morgan's text, but modern Welsh scholars are by no means certain that the Authorised Version was an improvement on its predecessor.¹ In 1621, Archdeacon Prys published his rhymed version of the Psalms, which became at once popular and is even still not entirely unknown. In 1630 "the little Bible"² was published at the expense of two London Aldermen of Welsh extraction, Sir Thomas Middleton and Rowland Heylin. This was the first time that a Welsh Bible became available for the people. Bishop Morgan's Bible and Bishop Parry's Authorised Version were designed only for use in the parish churches.³ Great,

¹ See Chapter III. of Ballinger's *Bible in Wales*. Parry followed the English Authorised Version of 1611. "Selyf" became "Solomon," "Suddas" became "Judas" (the "J" was, however, first used by Stephen Hughes), "Caersalem" became "Jerusalem," etc. The un-Welsh form of "Yr Iesu" (ὁ Ἰησοῦς) was adopted in place of "Iesu," and the English idiom "efe a atebodd ac a ddywedodd" took the place of "efe gan ateb a ddywedodd." It is claimed that Bishop Morgan anticipated some of the amendments of the Revised Version.

² For a full and interesting account of the "Bibl bach," or "y Bibl coron" (so called from its price being 5s.) see Chapter III. of the *Bible in Wales*. It has been stated that 1500 copies were printed and that Cradock and Powel found about 1000 copies in the printer's hands in London twenty years later. But I have been unable to find any confirmation of this tradition.

³ Estimates vary as to the number of copies printed. Dr. Rees puts the figure of Morgan's Bible at 600; Sir John Williams in the Preface to the *Bible in Wales* seems inclined to believe that 1000 copies of each edition were printed. The number of

and indeed priceless, as was the value of this work, it was all (with the exception of the Authorised Version) done through the initiative and piety of individuals, not "in consequence of the Act of Parliament, nor of commands from the Queen."¹ The only attempt to bring the Bible to the homes of the common people was made possible through the generosity of two London laymen.

But the people had, owing to lack of educational opportunities, sunk into woeful ignorance. They, for the most part, could not read Welsh and they understood little or no English. Vicar Pritchard's rhymes are full of allusions to the contrast between Wales and England.

Pob merch tincer gyda'r Saeson
Feder ddarllen llyfrau mawrion
Ni wyr merched llawer scweier
Gyda ninne ddarllen pader.

Big books can well be read
By an English tinker's daughter;
In Wales a squire's daughter
Cannot even read her 'pater.'

Rowland Vaughan, Caergai, in the introduction to the *Ymarfer o Dduwioldef* (1630) almost echoed the words of the old Vicar.²

There were few "preachers of the word." John ecclesiastical parishes in the four Welsh sees and of "border parishes" in 1901 was 1014 (Report of the Welsh Church Commission, p. 6). It could scarcely have been less than 900 in 1588.

¹ See Note 3, page 142.

² "Mwyaf peth sydd yn dyfod yn erbyn ein hiaith ni ydyw, anhawsed gan y Cymru rododi eu plant i ddyscu, fel y maen well gan lawer dyn fod ei etifedd yn fuwch yn ei fyw na threulio gwerth buwch i ddyscu iddo ddarlain; ac ni cheir yn Lloegr nemmawr o eurych (tinker), neu scubwr simneiau na fedro ddarlain, ac na fyddo ai lyfr dan ei gessel yn yr Eglwys, neu yn ei ddarlain pan fyddor achos."

Penry never ceases to complain of the "dumb ministers."¹ It was indeed the settled policy of Elizabeth to discourage preaching, lest the existing settlement of religion might be disturbed. Whitgift's successors were no more favourably disposed to the exercise of what might become a dangerous gift. They had always before their eyes the awful example of Presbyterian Scotland. It is no wonder, therefore, that the condition of the people became worse as time went on. Vicar Pritchard states that not one in a hundred of his countrymen could read the Bible. The author of *Carwr y Cymry* (1631) gives an even worse description of the condition of Wales. "Yea, give me leave, my dear brethren, to tell you (a thing I am sorry to be compelled to say) that there can be found in every one of the Sees of Wales 40 or 60 churches, with no one in them on Sundays in the long summer days, when the roads are driest and the weather is mildest."² John Edwards,

¹ George Owen, in his "Dialogue" (Owen's *Pembrokeshire*, iii. p. 98) gives a better account of the state of Pembrokeshire. Penry, in his *Humble Supplication* (1587), had said that "at this day we have not 12 in all our country that doe discharge theire duty in any good sort." Owen, to "confounde a shameless mann," stated that "there is within this sheere eight or ten Godly and Lerved ministers and Preachers of the Gospell which travell and laboure in the Lordes vinearde." Phillimore (*Ecc. Law*, i. 1023, ed. 1873) says of the clergy of the time of Elizabeth that being ignorant and not affected to the Reformation they were not allowed to preach without a licence, but were only permitted to read the homilies. See also Owen's *Pembrokeshire*, vol. iii. p. 99 n.

² The author is unknown, but as the book was an appeal to the Welsh clergy, it has been assumed (*e.g.* by Rees, p. 194, and Rowlands, p. 210) that he was "a pious clergyman." Rowlands in his *Bibliography* suggests the author was the Rev. Oliver Thomas of Oswestry, who signed the Covenant in 1647. Dr. Rees is wrong in ascribing the publication of the book to the year 1677. A second edition appeared in that year.

in the preface to his translation of the *Marrow of Modern Divinity* (1651), states that "of the home-keeping Welshmen, yea, among the scholarly noblemen, yea, among the educated clerics, scarcely one in fifteen can read and write Welsh." He goes on to say that he had never seen more than five printed Welsh books.¹ In 1646 Cradock, in a sermon delivered before the House of Commons, said that "in thirteene counties (of Wales) there should not be above thirteene conscientious ministers who in these times expressed themselves firmly and constantly faithful to the Parliament, and formerly preached profitably in the Welsh language twice every Lord's day."² In the same year, in the preface to his Catechism, *The Scripture's Concord*, Vavasour Powell stated that "having finished this little Catechism in English, it is translated into Welsh for my dear and soul-hungering countrymen, who have not to my knowledge any, excepting one (if one) of this nature, nay, far worse, have not of godly, able Welsh ministers, one for a county, nor one Welsh Bible for 500 families."³ Another, writing in 1649, witnessed that "among 20 families there can scarce one Welsh Bible be found and as for the English Bible, in the family where any is, it is but uselesse in respect of the generalitie of those which know nothing and understand nothing in that tongue."⁴

¹ The translator of *Madruddyn y Difynyddiaeth Diweddaraf* was a Monmouthshire man who bewails his imperfect knowledge of Welsh, because he had been born on the banks of the Severn, "where English has the upper hand over the British."

² *The Saints Fulness of Joy*, p. 34.

³ Quoted in Rees's *Nonconformity*, pp. 68-9.

⁴ "Sail y Grefydd Gristnogawl," quoted by J. H. Davies in the *Transactions of the Liverpool Welsh Society*, 1897-8, p. 67.

To this condition, then, had Wales been brought after one hundred years of the Protestant Reformation. The evidence of the degeneration of the people is overwhelming in volume, and as it is derived from such varied sources, it cannot be lightly set aside as exaggerated, still less as untrue. The magnitude of the evil, however, roused the conscience of earnest men. The day of the "hot-gospellers" was about to dawn—some of them men trained in the schools of Oxford and Cambridge, others "mean fellows" of no great learning, tailors, shoemakers, labourers, but all of them fired by genuine enthusiasm for the salvation of souls and the glory of God. They were rejected by the Established Church, and they were sometimes evilly entreated by their countrymen. But they saved the soul of Wales, and wrought a greater miracle than they themselves knew.

Macaulay, in one of his most incisive passages, contrasts the wise comprehension of the Church of Rome with the narrow exclusiveness of the Church of England in their dealings with enthusiasts. He describes how not infrequently in England a poor tinker or coal-heaver becomes "converted," and after emerging from the Valley of the Shadow of Death, "there arises in his mind a natural desire to impart to others the thoughts of which his own heart is full, to warn the careless, to comfort those who are troubled in spirit." But though "he has no quarrel with the establishment, no objection to its formularies, its government, or its vestments," the Anglican Church will have nothing to do with him, and he is driven into Nonconformity. "Far different is the policy of Rome. Place Ignatius Loyola at Oxford. He is certain to become the head of a formidable secession. Place John Wesley at Rome. He is certain to

be the first General of a New Society devoted to the interests and honour of the Church. Place St. Theresa in London. Her restless enthusiasm ferments into madness, not untinctured with craft. She becomes the prophetess, the mother of the faithful, holds disputations with the devil, issues sealed pardons to her adorers, and lies in of the Shiloh. Place Joanna Southcote at Rome. She founds an order of barefooted Carmelites, every one of whom is ready to suffer martyrdom for the Church : a solemn service is consecrated to her memory ; and her statue, placed over the holy water, strikes the eye of every stranger who enters St. Peter's." ¹

If that be the record of the Established Church in England, it is little wonder that in Wales she was even less successful. If it be a rhetorical exaggeration to describe Wales as "a nation of Nonconformists," it cannot be denied that the majority of religious people belong to the Free Churches,² and that the literature, education, and culture of Wales for the last two centuries and a half have been dominated and even transformed by the influence of the dissenting sects.³ Yet there never has been a religious movement in Wales which in its origin was consciously Nonconformist. John Penry,

¹ Macaulay : *Essay on Ranke's History of the Popes*.

² The Royal Commission reported in 1910 that the number of Nonconformist communicants was 550,280, and of Church communicants 193,081 (p. 20).

³ Ieuan Brydydd Hir, or Ieuan Fardd ac Offeiriad—as he preferred to style himself—and who was by no means favourably disposed to Dissenters or Methodists, thus wrote in 1776 : " Y mae yn dra hynod for yr ychydig lyfrau Cymreig ag sydd yn argraffedig, wedi cael eu trefnu a'u lluniaethu, gan mwyaf, gan ymwahanyddion, ac nad oes ond ychydig nifer wedi eu cyfansoddi gan ein hyffeiriaid ni es mwy na chan mlynedd ; a'r rhei'ny, ysywaeth, yn waethaf o'r cwbl o ran iaith a defnydd." The late Chancellor Silvan Evans commented upon this passage

the "poor young man, born and bred in the mountains of Wales," who was "the first, since the last springing up of the gospel in this latter age, that laboured to have the blessed seed thereof sowed in those barren mountains," and who, in 1593, sealed his testimony with his blood, was at first anxious and ready to obtain a commission from Parliament to preach the gospel "in his dear country of Wales."¹ It was only after he had been haled before the High Commission for this offence, and Archbishop Whitgift had brutally denounced his opinions as heretical, that Penry became a bitter opponent of the Episcopacy. After the publication of the Martin Marprelate tracts (1588-1589), Penry fled to Scotland. When he returned in 1592 he was an avowed "Separatist."² Similarly, the founders of the Independent sect in Wales had originally no quarrel

in 1876 as follows: "Pa fodd y dichon pethau fod yn wahanol, tra y mae yr esgobion estronawl, y rhai sydd yn llywodraethu yr Eglwys Gymreig, yn gorthrymu, ac yn erlid, ac yn llethu pob gwr eglwysig a ryfyo wasanaethu ei genedl drwy gyfrwng y wasg."

¹ Penry's last letter to Lord Burleigh, cited in Rees's *History of Nonconformity in Wales*, p. 28. Penry in his *Supplication* (1586) anticipated the policy of the Long Parliament and appealed to Parliament to employ lay preachers in Wales. His Petition was presented to Parliament by Edward Downley, M.P. for Carmarthen.

² In his *Exhortation* (1588) he wrote, "Away with these speeches. How can we be provided with preaching? Our livings are impropriated—possessed by non-residents! Is there no way to remove these dumb ministers but by supplication to Her Majesty, and to plant better in their stead? . . . You never made account of your tithes as of your own. For shame! Bestow something that is yours to have salvation made known to you." This was a great advance on his original plan two years before to get Parliament to subsidise preachers, and himself to be a Parliamentary missionary in Wales, as Walter Cradock and Vavasour Powell afterwards were during the Commonwealth.

with the articles, the liturgy, the government, or the ceremonies of the Church of England.¹ The saintly William Wroth had been Rector of Llanfaches for thirty-nine years when in 1639, being deprived of his living for irregular preaching, he founded the first Nonconformist Church in Wales. He had no wish to leave the fold of the Church. When remonstrated to by Bishop Field of Llandaff about his uncanonical practices, he replied "there are thousands of immortal souls around me thronging to perdition, and should I not use all means likely to succeed to save them?" It was the reflection that "immortal souls were thronging to perdition" that was the compelling force with him, as it had been with John Penry, and as it was to be with hundreds of devoted men in the years to come. He had been in all ways, except in the matter of irregular preaching, a faithful servant of the Church, and when he came to die in 1642, he directed that he should be buried, not in the meeting-house whose first minister he was, but in the chancel of the church where he had

¹ Cf. the Rev. Griffith Jones, himself the son of an Independent deacon: "I must also do justice to the Dissenters in Wales, and will appeal for the truth of it to all competent judges, and to all those themselves who separate from us . . . that it was not any scruple of conscience about the principles or orders of the Established Church that gave occasion to scarce one in ten of the Dissenters in this country to separate from us at first, whatever objections they may afterwards imbibe against conforming. No, sir; they generally dissent at first for no other reason than for want of plain, practical, pressing, and zealous preaching, in a language and dialect they are able to understand; and freedom of friendly access about their spiritual state. When they come (some way or other) to be pricked in their hearts for their sins, and find none . . . that will deal tenderly with their souls and dress their wounds, they flee to other people for relief, as dispossessed demoniacs will no longer frequent the tombs of the dead" (*Welsh Piety for 1741*, p. 12).

laboured for more than half his life.¹ The second Welsh Independent, William Erbery, after acting as a curate at Newport, was for ten years or so Vicar of St. Mary's, Cardiff. He was proceeded against for irregularities at the same time as Wroth in 1634, and he was also deprived of his living in 1638. He formed an Independent Church at Cardiff, somewhat reluctantly, out of respect (he afterwards wrote) to the advice of Wroth. When the Civil War broke out he fled to England, where he became Chaplain to Major Skippon's regiment. He fell away from the Independents, and adopted strange mystical views akin to those of the newly-formed sect of Quakers. But he retained to the last his reverence for William Wroth. He recalled in 1652 with genuine emotion the godly fellowship that gathered round that venerable Apostle at Llanfaches. "What light and labour in the spirit was there ! How heavenly-minded ! What holy language among them ! What watching ! What prayers night and day in the way they went, in the work they did, at their plough ; everywhere in private that spirit of prayer and pureness of heart appeared. Nothing of ordinances was then mentioned."² Towards the end of his life, he became a real Nonconformist, in the sense that he disbelieved in the connection of any Church with the State. Erbery's curate at Cardiff in 1632 was Walter Cradock, who was described by Laud in a letter to the king, on the authority of the

¹ Walter Cradock was also buried in the chancel of the church in his native parish, Llangwmucha.

² Erbery's *Apocripha*, p. 8. After his death in 1654 his widow, Dorcas Erbery, became a Quakeress. In *The Shield Single*, written by an Independent preacher, Henry Nicholls, Erbery is said to have come under the influence of Roger Williams of Rhode Island.

Bishop of Llandaff, as "a bold ignorant young fellow." His licence was taken away from him in 1633. He spent the next six years preaching in various parts of Wales and the border counties. For a year he acted as curate at Wrexham, and Morgan Llwyd o Wynedd was one of his converts. When driven out of his cure, he took refuge in Shrewsbury, and found a powerful protector in Sir Robert Harley, the grandfather of Lord Oxford, Queen Anne's Tory Prime Minister, at Llanfair Waterdine. He preached often in Radnorshire and Montgomeryshire, and one of his earliest converts was Vavasour Powell. In 1639 he became Worth's assistant at Llanfaches, but he had to fly to Bristol in 1643, taking his flock with him, and on the fall of that city, he went to London. Gradually he was driven to adopt more advanced opinions. One of his bitterest critics reports a sermon which Cradock preached in London, and which shows that his views were not unlike those of Roger Williams of Rhode Island.¹ "In that day," he said, "there should be no ordinances to punish men for holding opinions: there should be no confession of faith; there everyone should have the liberty of their conscience . . . and in that day neither episcopacy nor presbytery² nor any others should intermeddle or invade the rights of the saints."³ But up to the time of his death in 1659 he was in receipt of state pay. He

¹ Roger Williams is often erroneously described as a Welshman, who was born at Maestroiddyn Fawr, in the parish of Caio in Carmarthenshire. The error arose through confounding him with Rodericus Williams, who was educated at Jesus College, Oxford. Roger Williams was educated at Cambridge, and was a Cornishman.

² Cf. Milton: "New Presbyter is but old priest writ large."

³ Edwards, *Gangraena*, part iii. p. 163 (A.D. 1646).

was a faithful supporter of Cromwell and parted company with Erbery, Vavasour Powell, and Christopher Love.¹ Vavasour Powell was preparing for the Church ministry, when he fell under the influence of Walter Cradock. In or about 1654 he joined the Baptists, and opposed Cromwell's assumption of the title and office of Lord Protector. But he, like Cradock, received State pay till the Restoration, and in his autobiography, written while lodged in the Fleet Prison, where he died in 1670, he admits that he had been in constant receipt of tithes. Nor was even Morgan Llwyd² averse to the connection of State and Church. Perhaps in some ways the most advanced of the Welsh Puritans was John Myles, the founder in 1649 of the Baptist Church at Ilston near Swansea,³ and after the Restoration, of a Baptist Church in a new Swansea, near Boston, in Massachusetts. But throughout the Commonwealth he held the living of Ilston.

¹ Love (1618-1651) was born in Cardiff, and at the age of fourteen was converted by Erbery. He received Presbyterian ordination in Scotland, but came back to labour in London. In 1651 he was condemned for high treason and executed on Tower Hill, Aug. 22nd. He confessed that he had been in correspondence with Queen Henrietta Maria and had been plotting for the return of the Stuarts.

² J. H. Davies, in his masterly "Introduction" to the works of Morgan Llwyd (pp. 49-50), inclines to the belief that Llwyd gave up the incumbency of Wrexham some years before his death in 1659. But there can be no doubt but that he was in his early years in receipt of State pay. J. H. Davies (p. 44) has rescued two stanzas by Huw Morus, not before published, in which Vavasour Powell and Morgan Llwyd are mentioned, evidently as the most notable Puritans in North Wales.

³ Dr. Joshua Thomas in *Hanes y Bedyddwyr* supposes that a Baptist cause at Olchon, on the borders of Herefordshire, was started in 1633. Dr. Thomas Rees (*History of Nonconformity*, p. 90) states that the Church founded in 1649 at Ilston was the first Baptist Church in Wales. For his proofs, see *passim*.

I shall not attempt in this chapter to write the history of the progress of Nonconformity in Wales. It is sufficient for my purpose to show that the earliest religious reformers of Wales originally had no object in view except the saving of souls. If Laud, who wrought for a reconciliation with the Roman Church, had appreciated the wise policy of that historic institution, if he had striven to retain the services of Wroth, and Erbery, and Cradock, with the same zeal which he displayed in driving them out, it is conceivable that the robe of Christ might have remained seamless. After the Civil War, it was perhaps too late, though it is at least arguable that even in 1662 a policy of comprehension might still have succeeded. After the Act of Uniformity, there was no hope of reconciliation. Bishop Lloyd of St. Asaph (afterwards of Worcester and London) did make a politic and genuine effort to induce Philip Henry¹ and other dissenting ministers to conform, and the Bishop of Llandaff offered episcopal ordination to the illustrious Samuel Jones of Brynlllywarch.² But these and similar attempts came too late, and came to nothing. Nonconformity grew in power and strength, and the gulf fixed between it and the Establishment became wider with the revolving years.

In spite of the strenuous efforts and the evangelistic zeal of the Puritan fathers, the people of Wales did not

¹ Philip Henry, the father of Matthew Henry, the commentator, was a native of Briton Ferry, Glamorganshire, but spent the whole of his ministerial life in North Wales.

² Samuel Jones was the most erudite of the Welsh Puritans. As to the Bishop's offer, see Rees's *Nonconformity*, p. 232, *seq.* He had been evicted from the living of Llangynwyd in Glamorganshire in 1662. He founded an academy from which eventually emanated the Presbyterian College of Carmarthen. That dissent was caused by Church Government, *i.e.* the refusal to allow

take kindly to the new faith. Huw Morus bewailed the disappearance of the merry old days before the civil dissensions.¹ In another poem he ridiculed the mockery of a religious service held in the parish church by Round-head soldiers.² Dr. Rees, who is not disposed to underestimate the success of the Welsh Puritans, found it "impossible to form a correct idea of the number of Nonconformists in Wales" at the end of the Commonwealth. "The gathered churches," he states, "were

"irregular" preaching, and not by doctrinal differences is shown by the verses by Stephen Hughes which prefaced his 1672 edition of the *Welshman's Candle*.

Gwir Gonfformist oedd dy feistyr
Ac am hynny ni'th 'sgymunir
Ni throi'r arnat ti yn haerllug
Waeth dy daclu gan ffanatig.

Mae d'ail feistyr yntau'n dala
Holl athrawiaeth y Gymanfa
O Eglwys Loeger, gan ei thraethu
Ym mhob tyrfa y del iddi.

Mae e'n traethu ei hathrawiaeth
Er na leica mo'i disgyblaeth;
Ond nid yw'n cyhoeddi hynny
Ble mae'n arfer o bregethu.

¹ Pan oeddwn i'n fachgen,	My youth it was a merry
Mi a welais fyd llawen,	time,
Cyn codi o'r genfigen flin filen	Ere came these broils so
yn fawr	vain,
I ladd yr hen lywydd	To kill the King and change
A dewis ffydd newydd	the faith
Ac Arglwydd aflonydd yu	And a restless Lord to reign.
flaenawr.	

² Gwr gwyh yn ei gleddau	A red-coated soldier, with
A chwilia'r 'sgrythyrau	sword at his side,
Ac a farna fel ystus rhwng	Mounts the church pulpit the
beiau ar y bar.	scriptures to read,
A hwn er na ddwedo	He sits on the Bench when
Na phader na chredo	offenders are tried,
A i'r pwlpud i focio'r hen	And apes the old Vicar sans
Ficar.	pater or creed.

above twenty in number, containing from two to five hundred members each.”¹ But the importance of the Puritan movement in Wales must not be estimated by the number of adherents. To the Puritans belongs the credit of arresting the steady process of the degeneration of the people. It was their work, as it will be shown in the next chapter, that stayed the decay of the Welsh language. It was owing to their pious zeal that the poorer classes of Wales were taught to read the Scriptures in their own tongue. They did not live to see the fruits of their labour. But they were the first to sow the good seed which “like the shakings of the olive tree, was destined to new life after many days of burial.”²

The Restoration brought with it the Uniformity Act of 1662, which resulted in the eviction of 2000 ministers from their benefices. It is said,³ though the evidence is somewhat defective, that over one hundred of them were Welsh incumbents. The barbarous penal statutes against Nonconformists—the Test Act, the Conventicle Act, the Five Mile Act, the Corporation Act—bore hardly on the tender plant of dissent in Wales. The Toleration Act of 1689 revived the drooping cause, and Dr. Thomas Rees claims that there was a perceptible and even marked increase in the number of members of the Dissenting Churches in Wales during the first thirty-five years of the eighteenth century.⁴ But the energy of these Churches was dissipated by internal factions and barren controversies, sometimes about

¹ *Hist. of Nonconformity*, p. 119.

² Stubbs, *Const. Hist.* vol. iii.

³ Rees, *History of Nonconformity in Wales*, p. 153.

⁴ *Ibid.* pp. 274-280.

recondite points of theology, sometimes about the efficacy of sacraments, sometimes about church government, and again about such ordinances as infant baptism. The old missionary zeal departed; and after the early Methodists had revived the consuming enthusiasm of the "hot-gospellers," the Dissenters were nicknamed the "sinters sychion."¹ They no longer went into the highways and bye-ways to compel sinners into the way. They were content to hold their disputations within doors. They were startled out of their spiritual sloth by the portent known as the Methodist Revival. Two young men, living in different counties, unknown to and unconnected with one another, and with no well-defined object in view other than to "labour in the Lord's vineyard,"—Howell Harries and Daniel Rowlands—commenced a new mission in 1735. To Howell Harries may be assigned the glory of being the founder of Welsh Methodism. Born in Trevecca in 1714, he was destined for the ministry of the Church. He spent one term in Oxford, but found his work waiting for him in his native county and never returned to the University. He began to exhort and teach in his native parish. His fame soon spread abroad, and zealous Dissenters like Edmund Jones of Pontypool and David Williams of Watford got into touch with him and invited him to come and preach to their flocks.² Early in his apostolic career he notes in his Diary that "by this time I gained acquaintance with several Dissenters, who kindly

¹ "The dry Dissenters." In South Wales to-day the Welsh Independents are known, in common parlance, as "Dissenters," a term which is never applied to any of the other Nonconformist denominations. At the first Methodist Association at Watford in 1743 the Dissenters were charged with "luke-warmness."

² V. Rees's *Nonconformity*, c. v.

received me into their houses." In 1737 he happened to hear Daniel Rowlands, curate of Llangeitho, preach in Devynock Church, and his "heart burned with love to God and to him. Here began my acquaintance with him and to all eternity it shall not end." Powerful as was the ministry of Howell Harries, Rowlands surpassed him in the splendour of his preaching power. "Though I have now been favoured with hearing and reading the works of many of God's ministers," Harries records in his Diary, "I do not know, so far as I am capable of judging, that I have known any so favoured with gifts and powers." The two young men, not yet thirty years old, became fast friends and comrades in the good work. Whitefield wrote to Harries in 1738, John Wesley prayed for him, Griffith Jones encouraged and stimulated his ardour. In 1743 the first meeting of the Welsh Methodist Association was held at Watford, and the second was held in May of the same year in Carmarthenshire. At the latter they enlisted their most illustrious recruit. William Williams of Pantycelyn, near Llandovery, was the son of an Independent deacon. He was sent to Vavasour Griffiths' academy at Llwynllwyd to prepare for the medical profession. One Sunday, which will ever be memorable in the history of Wales, the young student heard Boanerges¹ thunder out his flaming message in Talgarth Churchyard to an unregenerate people.² He threw up the plans that had

¹ Williams, in his elegy, thus described Harries's preaching.

Yn y daran 'roedd e'n aros,

Yn y cwmwl 'roedd ei le,

Ac yn saethu oddi yno allan

Fellt ofnadwy iawn eu rhyw.

² Dr. Rees is wrong in saying (p. 353) that Harries preached

been made for his future. Henceforth he was resolved to be a physician of souls. In 1740 he was ordained by the Bishop of St. David's, and for three years he served as curate to the Rev. Theophilus Evans at Llanwrtyd. But there was little in common between the scholarly author of *The Mirror of the Early Ages*¹ and the fiery soul who had already consecrated himself utterly to the service of God and man. He joined the Methodist Association, and Harries, in a flash of inspiration, bade him sing the songs of Zion.² They were also joined by the Rev. Howell Davies, a young clergyman of Pembroke-shire. Years after other clergymen of the Established Church, such as Peter Williams (1746), David Jones, Llangan (1768), Thomas Jones of Creaton; and—the greatest of them all—Thomas Charles of Bala (1785), became associated with them. At the time of the "secession" from the Established Church in 1811, there were no less than twelve or thirteen ordained clergymen among the members of the Association.

Once again the Church of England in Wales was given an opportunity of reconciling herself with the people to whom she was supposed to minister. Once again the opportunity was lost. Howell Harries, though he was refused episcopal ordination, and though he was

from his father's tombstone. Williams's testimony in his elegy is conclusive.

Dyma'r fan tr'wy' byw mi gofiau
Gwelais i di gynta' erioed
O flaen porth yr eglwys eang
Heb un twmpath dan dy droed.

¹ *Drych y Prif Oesoedd.*

² After all present at the Llanddeusant Association had tried their hands at hymn-writing, Harries is stated to have said "Williams bia'r canu."

guilty of uncanonical conduct in preaching in unconsecrated places without a licence from a bishop, lived and died a faithful member of the Established Church. As early as 1744 some of the Methodists were in favour of seceding. One of the members of the Association has left it on record that "the Methodists had once all of them agreed to depart from the Church of England excepting Mr. Howell Harries, who opposed their design with all his might."¹ At the first meeting of the Association at Watford in January, 1743, with Whitefield in the chair, it was decided that the brethren should continue to receive the sacrament in the Church.² On April 17th, 1744, a resolution was passed by the Association at Glan-yr-afon-ddu in Carmarthenshire to the effect that "we agree to communicate in the parish Churches, and to advise people to do so."³ Daniel Rowlands, in spite of his "irregular" practices, remained a minister of the Established Church to the end of his days, though it is said that he had been inhibited from exercising his priestly functions by the Bishop of the Diocese. Williams of Pantycelyn, a few weeks before his own death, thus sets out the doctrinal position of his friend and leader.

Mae ei holl ddaliadau gloew
 Mewn tair credo gryo glir :
 Athanasius a Nicea
 Yng nghyda'r Apostolaid wir :
 Hen erthyglau Eglwys Loegr,
 Catecis' Westminster fawr,
 Ond yn benna'r Beibl santaidd
 D'wynodd^u arnynt oleu wawr.

¹ Thomas Morgan's MS. cited in Rees's *Nonconformity*, p. 367.

² Rees's *Nonconformity*, p. 363.

³ *Ibid.* p. 366.

It is evident from the poet's warmth of tone that he was in thorough accord with Rowlands. Indeed, Williams in all his manifold writings—and he was no mean theologian—shows himself to be in doctrine an orthodox evangelical Churchman. The clergymen in the Association wielded great influence, and for years they successfully resisted the movement of the lay preachers towards secession. So meticulous were they in their zeal for orthodoxy that in 1792 they expelled the venerable Peter Williams from the Association, because he had, in a note on the first chapter of the Gospel of St. John, which had been published twenty years before, and never repeated, used an expression which was said to amount to Sabellianism.¹ The Rev. David Jones of Llangan, who presided at the meeting of the Association at Llangeitho in August, 1810, lost his temper when one of the members proposed that some of the preachers should be ordained and ordered him to be turned out. A few days later David Jones died, and it is more than likely that his death was hastened by grief at the prospect of the secession of his brethren from the Church which he loved and served so faithfully.² At last, however, in June 1811, the crisis came to a head. The fateful step was taken at the meeting of the Association which was held at Bala. Eight preachers, including the famous names of John Elias and Thomas Jones of

¹ The Rev. Peter Williams was then seventy years of age, and had been a faithful and diligent worker in the Methodist cause for forty-six years (Rees's *Nonconformity*, pp. 385-6). Sabellius taught in the third century that there was but one person in the Godhead, the other persons of the Trinity being but different names of the same person. The heresy was condemned by a Council at Rome in 260 A.D.

² Rees's *Nonconformity*, p. 426.

Denbigh, were ordained ministers by Thomas Charles and two of the oldest preachers. Two months later, at Llandilo, the Rev. John Williams of Pantycelyn, and two or three others, ordained thirteen preachers, among whom were included David Charles, Carmarthen, Ebenezer Morris, and Ebenezer Richard. The breach with the Church became complete. Six or seven of the clerical members of the Association joined the secession ; six refused to leave their old Church, Thomas Charles himself was most reluctant to take the final step.¹ But there was no help for it. If the Established Church had, even at the eleventh hour, held out a helping hand in Christian charity to her sorely-troubled sons, she could have retained within her fold tens of thousands of the most godly and devoted men that ever graced the sanctuary of the Christian Church.

Dr. Thomas Rees states that the reason why this momentous step was taken was because " many of the societies (for lack of a sufficient number of ordained ministers) were kept a whole year without having the Lord's Supper administered to them. Under such circumstances, they would occasionally go to the nearest parish churches to receive the ordinance ; but their feelings were often shocked at the idea that the administrators were men of such character as would not

¹ In 1801 Charles drew up the " Rules and Objects " among the people called the Methodists in Wales. It is there stated that the Methodists " do not designedly dissent nor do we consider ourselves Dissenters from the Church of England. So far as our doctrinal views are concerned, we agree entirely with the Articles of the Church of England. All that appears in our religious customs as tending towards dissent, has taken place of necessity not of choice. The formation of a schism, sect, or party is not our object, God forbid ! but our own good and the good of our fellow countrymen " (Hughes, *Life of Thomas Charles*, p. 64).

be tolerated as members of the connexion ; and not infrequently they would meet there, at the Lord's Table, parties whom they had been obliged to expel from their fellowship only a few days before for open immorality." ¹ No doubt this was one of the considerations which weighed with most, if not all, of the seceders. The scruple of brethren, however, " to receive the sacrament in the church, on account of the impiety of the administrators and the usual communicants there," had not escaped the attention of the Association at its first meeting at Watford in January, 1743.² But, as has been said, it was determined that they should " continue to receive it in the church, until the Lord open a clear way to separate from her communion." The lay preachers had for years before the final separation been pressing hard for full ministerial powers, and the pressure did not grow less as the fame of John Elias, Ebenezer Morris, and Ebenezer Richard spread throughout the Principality. But the clerical element in the Association, led at one time by Daniel Rowlands, then by David Jones of Llangan, and lastly by Thomas Charles, had proved too strong for the preachers. But in 1811, after the death of Jones of Llangan, Thomas Charles gave way. What new fact, then, had arisen which cleared the way for separation in 1811? The answer is to be found in the *Vindication* which Thomas Charles published in 1802. In it he describes in clear and unmistakeable terms the course to which the Methodists were being relentlessly driven. They looked upon themselves as members of the Church of England. They repudiated the name of " dissenter." When they met to hear the sermons of the " exhorters " or " counsellors," to engage

¹ Rees's *Nonconformity*, pp. 425-6.

² *Ibid.* p. 363.

in public prayer, and to fortify their faith by the exchange of religious experiences, they did so, not in a "meeting-house" or "conventicle," but in a "chapel," which, though unconsecrated by a bishop, was to their mind only an annexe or mission house of the parish church. They only partook of the sacrament in church or from the hands of duly ordained clergymen. They were christened and married in church, and they were buried in the churchyard by the parson of the parish. They held the doctrines of the Church of England. They believed in the three creeds, of Nicea, of Athanasius, and of the Apostles. They were unsound on none of the thirty-nine Articles. In order to come within the protection of the Toleration Act, dissenters had to register their meeting-houses, and their preachers had to take out a licence. But the Methodist fathers refused to confess that they were dissenters by taking out a licence for themselves or register their chapels. Some time before 1802 some ingenious persecutors of the Methodistical churchmen, more foolish than even the bishops, devised and carried out a scheme which they fondly believed would stamp out the pestilent precisians. They instituted prosecutions against Methodist preachers because they exhorted the societies without a licence and in unregistered meeting-houses. Some of the preachers were imprisoned. Thomas Charles mentions the case of one of them who had been imprisoned for six months in Dolgelley gaol. In one year nearly £100 had been paid in fines.¹ It was this that made the situation intolerable. A cruel choice lay before

¹ "Our steady attachment to the Established Church," wrote Thomas Charles, "cost us in fines, in one year, near one hundred pounds: for we scrupled to have our places of worship recorded and our preachers licensed as dissenters." Hugh Hughes, in his

the much-tried brethren. Either they must forgo the delights of spiritual companionship, the communion of saints, the uplifting power of extempore prayer, the emotional fervour of passionate preaching, and the unspeakable joy of devotional and inspiring confidences of soul with soul, or they must write themselves down as dissenters. They hesitated much and long. But by 1802 the choice had been made, and the Welsh Methodists, in self-defence, had been compelled to register their chapels as dissenting meeting-houses and to take out licences for their preachers as dissenting ministers under the Toleration Act. The "Secession" of 1811 was in truth little more than a formal recognition of an already existing state of things. Thomas Charles foresaw clearly in 1802 that the Methodists would be driven to ordain ministers of their own is shown clearly by his statement¹ "that though to episcopal ordination we give the decided preference, and think it very desirable, could it be obtained: but how, we would ask, in the present state of things, is it to be obtained by any of our preachers, though ever so well qualified in learning and abilities?" Even after the final step was taken, however, it required all the unique and unrivalled authority of Thomas Charles to force the societies in many places to acquiesce in the decision to secede from the Established Church.² In very truth, the Welsh Calvinistic Methodist connexion was formed in 1811,

translation of Charles's *Vindication* (1894), gives the name of the imprisoned preacher as Lewis Evan of Llanengan in Montgomeryshire.

¹ P. 51.

² See, e.g., the refractory conduct of the Llangeitho Methodists after the secession, in Rees's *Nonconformity in Wales*, pp. 427-8. See also Hughes, *Life of Thomas Charles*, chap. v.

not because Thomas Charles and his fellows wanted to create a new "schism," but because the rulers of the Church stood idly by while lewd men of the baser sort of set policy forced them out of the fold.

The story of the rise and progress of Nonconformity in Wales is a veritable romance, which has no parallel in any other country. In Scotland Presbyterianism became in early days the established religion; in Ireland the Catholic Church had behind it the authority, guidance, and world-wide organisation of Rome; in the United States of America and the Colonies there has not been for generations an Established Church. The fathers of Welsh Nonconformity were for the most part uneducated and unlettered peasants who had to contend, unaided by State or patrons, with the difficulties of their work. Some of their most splendid names belong to men who would have been ridiculed by Huw Morus. John Elias was a weaver; Christmas Evans a farm servant; Williams o'r Wern a carpenter.¹ Wales was a poor and sparsely-populated country. Bad roads and inhospitable mountains made travelling difficult. On the other hand, the Established Church contained all the rich men, the scholars, the wealthy merchants, the officials, and the professional men. Every parish had its church, the fabric of which was maintained by a compulsory Church rate, and its clergyman, who was in receipt of tithe. To all outward seeming all was in favour of the Establishment and against Nonconformity. As Thomas Charles stated in his *Vindication* in 1802,

¹ Rhai a ddywed yn dduwiol, mai'r Gof sydd ysbrydol,
Ac eraill, modd gwrol, a ganmol y Gwydd;
A rhai syn deisyfu y Crydd i'w ceryddu,
A'r lleill yn molianu'r Melinydd.

“The Church people have every advantage over us, in education, in wealth, in numbers, in favour with the great ones of the earth, and in all outward things.” The poor, insignificant sectarians had to compete against wealth and culture, education and officialdom. They had to plan, create, develop, and maintain a national religious organisation. It was too great a task to be accomplished in one generation, or through the instrumentality of one man or of one school of prophets. It is true that Wales has been blessed with a host of heroic men, and that not a single generation, from the days of William Wroth down to our own times, has been without its strenuous workers for the good cause. But the unresting energy of Walter Cradock or Stephen Hughes, the flaming eloquence of Daniel Rowlands, the matchless poetry of Pantycelyn, the magnetic genius of Christmas Evans, the inspired philosophy of Williams o’r Wern, and the supreme organising capacity of Thomas Charles are not sufficient to account for the constant and progressive success of Nonconformity in Wales.¹ The chief cause which contributed to this success was the fact that Nonconformity taught the Welsh people to work out their own salvation. It was easy work to kindle the sacred fire on God’s altar during the mighty commotion and spiritual exaltation of a Revival. But this was not enough. The fire had to be kept burning on the altar in the years of coldness and

¹ Dr. Thomas Rees estimated the number of communicants in Protestant Nonconformist Churches in Wales at 283,500 in 1861, and 368,700 in 1882. The Royal Commission in its Report in 1910 found that in 1905 the number of Nonconformist communicants in Wales was 550,280, and of Church communicants 193,081 (p. 20). It also stated that the accommodation provided by the Nonconformist Churches was for 74 per cent. and by the Church for 22 per cent. of the total population of Wales (pp. 56-7).



spiritual destitution ; the hungry sheep had to be fed in the days of famine. In every parish a number of people had to combine together to build a chapel, to choose a pastor, to elect officers, to arrange finance, to act as a court of discipline—in a word, to perform all the duties of self-government. The wonder is that, in a country as backward as Wales was until our own age, such men were found in every parish from generation to generation. These simple folk had one single purpose before their eyes in all the sacrifices that they made and in all the work that they did. Their only object was to save souls. But they built wiser than they knew. The life of Wales has been transformed and transfigured by Dissent. The preservation of the Welsh language, the revival of her literature, the awakening of her spirituality, the development of her education, even the cultivation of her choral singing—perhaps the most striking and distinctive feature of her social life—can be traced to the fertilising energy of Nonconformity. Wales has worked out her salvation in her own way. She has fashioned her Free Churches after her own model. She has composed her own hymns and sung them to her own airs. She has adopted her own form of worship and largely her own system of organisation. She has discovered and developed her own peculiar and distinctive style of pulpit oratory. Nonconformity found Wales derelict ; it has reared up a new nation. It found Wales pagan ; it has made her one of the most religious countries in the world. It found Wales ignorant ; it has so stimulated her energies that by to-day Welshmen, largely by their own self-sacrifice, have provided for themselves the most complete educational system in Europe. It found Wales a nation of no

account ; it has trained and disciplined her character so that to-day she is recognised as one of the component nations of the United Kingdom, and one of her sons—a characteristic product of Welsh Nonconformity, unaided by the culture of the schools—is the first man in the Empire, and one of the arresting figures of the world. Even the Church, which cast out the founders of Nonconformity, has cause to bless the existence of its competitor. As the Church of Rome gained in spiritual force, in discipline, and in authority through the Protestant Reformation, so the Church of England in Wales has been purged of her old abuses—her sloth, her indifference, her Erastianism—by the success of Dissent. From the days of Griffith Jones, Llanddowror, and Williams of Pantycelyn she has drawn largely from Nonconformity. To-day one of the Welsh bishops is the grandson of a Methodist deacon. Another remained, until he arrived at years of discretion, a member of the Methodist connexion : and in her old age, his mother went every Sunday from the episcopal palace to the village chapel at the gate—an example of true Christian charity which we may hope augurs well for the tolerance of a new age. The Church of Bishop Morgan and Archdeacon Prys, of Vicar Pritchard and Huw Morus, of Griffith Jones and Daniel Rowlands, of Lewis Morris, Goronwy Owen, and Ieuan Brydydd Hir, of Alun, Glasynys, and Ieuan Glan Geirionydd, of Gwallter Mechain and Carnhuanawc, and of that noblest and most far-seeing of patriots, Dr. Rowland Williams, cannot fail, in spite of past errors, to excite the regard and even affection of Welshmen. The shortsighted prejudices of men in high places and the practice of promoting aliens to the thrones of Dewi and Teilo, of

Deiniol and Cyndeyrn, caused the Church to fail in her duty in the past. Now that she has recovered her liberty and her leaders will represent her own soul and spirit and not the whim or caprice of an English Prime Minister, she may yet become—if she be wisely guided and if her members be inspired to throw themselves heartily and without reserve into all the activities of national life—in truth and in fact, the Church of Wales.

CHAPTER VII

THE WELSH LANGUAGE

How the ancient speech of the Britons, after battling for eighteen centuries against three such powerful languages as Latin, French, and English, has survived at all is a mystery ; the fact that to-day it is more studied, more written, and more read than ever it was before, is a miracle. For nearly four centuries after the " Claudian " conquest of South Britain, Latin was the official language. The masterful race, which succeeded in imposing its speech for all time on the provinces of Gaul and Spain, pursued its policy of conquest, penetration, and assimilation with equal energy in Britain. It intersected the country with its great roads, and Sarn Helen in Wales is as well marked as Watling Street in England.¹ There was no portion of Wales that did not fall within the sphere of its civilising influence. Carmarthen and Carnarvon were its outposts ; its castella were scattered all over the country ; the great camps of Chester (Deva) and Caerleon (Isca) were its bases.² The Roman steps over the bleak mountains of Merioneth,³

¹ See Prof. Lloyd's *History of Wales*, c. iii.

² In addition to J. E. Lloyd's valuable chapter iii. see Prof. Haverfield's paper in the *Cymmrodorion Transactions*, 1908-9.

³ Some doubt has been recently cast on the Roman origin of the steps. But there are other evidences (*e.g.* Caergai) to show that the Romans effectively occupied the wildest parts of Wales.

and the gold mines (Gogofau) of Caio in a wild part of Carmarthenshire, remain as monuments of the thoroughness of the Roman occupation. From Rome the Christian faith was brought to Britain and to Wales. The language of the new religion ¹ was necessarily Latin. To this day the speech of the people of Wales betrays the extent of Roman influence over the life of this remote province. The chief occupation of the Britons was agriculture. Many of the agricultural terms used in Welsh are derived from Latin.² Some of the commonest domestic terms have the same origin.³ Naturally, Latin supplied the names of military weapons.⁴ The divisions of the year into months and days were adopted from the Romans; the Winter and May Kalends (calon-gaeaf and calan-mai) still survive in the ordinary speech of the people; and for nearly all the months of the year, and for all the days of the week, the Latin nomenclature was, and is still, used. It is from Latin MSS. that we derive our earliest knowledge of Celtic Britain, and "the oldest examples of written Welsh are found between the lines and in the margins of Latin MSS."⁵ We may well conclude from these

¹ The Welsh word for Church, "Eglwys," is derived from *ecclesia*, a Greek word borrowed by the Romans. The English "Church" and Scotch "Kirk" are derived from κυριακόν, "the Lord's House," the term used in the Greek Church, whence it was transmitted to Germany and eventually to Britain.

² E.g. "cwlwtwr" for ploughshare; "ffos" for ditch; "mur" for wall; "pont" for bridge. See Lloyd's *Hist. of Wales*, vol. i. pp. 84-7. "Aradr" (plough), "ceffyl" (horse), "tarw" (bull) are, Sir J. Morris Jones informs me, derived from a common root, but not direct from Latin.

³ E.g. "fwrn" for oven, "ffenestr" for window, "sebon" for soap, "cyllell" for knife.

⁴ E.g. "castell" for fort, "pabell" for tent.

⁵ Morris Jones, "Taliesin," vol. xxviii. of the *Cymmrodor* (p. 6).

facts that as Latin was the language of government, of the army, of religion, of scholarship, of industry, and largely of the home, the ancient British tongue was in process of being absorbed or eliminated.¹ But in the early years of the fifth century the Emperor Honorius recalled his legions from Britain, and gradually the native tongue reasserted itself.

The story of the next six hundred years is one of continual fighting against Saxon and Angle, Jute and Dane. Time and again Welsh princes had to do homage to the foreign overlord. Shortly before his death Harold, the last of the Saxons, harried and devastated Wales from end to end. But the struggle against the savage invaders only served to intensify the love of the Britons for their faith, their land, and their language. In the fifth century the coming of Cunedda from North Britain brought not only a material accession of strength to the Brythonic inhabitants of Wales,² but by bringing about a closer intercourse with the Britons of the north, made

The whole essay is an absorbingly interesting account of the early literature of Wales, with special reference to the *Book of Taliesin*. It affords convincing proof of the unbroken continuity of Welsh literature from the sixth century downwards.

¹ "Welsh contains a very large number of Latin loan-words" (Lloyd, *Hist. of Wales*, p. 84). "The Celts had no native alphabet or system of writing" (*ib.* p. 86). Cf. Morus Kyffin's "Anerch" in *Diffyniad Ffydd* (ed. W. P. Williams, pp. vii, viii.), "ag am y geiriau Lladinaidd, pwy nis gwyr nad yw'r iaith Gymraec yn ei herwydd ddim amgen onid hanner lladin drwyddi. Mi allwn pe bae gennyf hamdden wneuthyr llyfr digon ei faint o'r geiriau Cymraec arfaredig a fenthyciwyd . . ." For a full treatment of this matter, see Professor Loth's *Les mots Latins dans les langues Britanniques*.

² For the obscure story of Cunedda Wledig's "conquest" of Wales in the fifth century, see Lloyd's *History of Wales*, pp. 118-121; Rhys' *Celtic Britain*, pp. 118-121; Rhys and Jones's *Welsh People*, pp. 9-10.

the poems of Taliesin, Myrddin, Talhaiarn, and Llywarch Hen, the great bards of the sixth century, known to them, and must have acted as a mighty stimulus to the native literature.¹ The Cymry, as they now came to call themselves, kept aloof from the pagan Saxons and refused even to attempt to convert them to Christianity. As the Cymry were driven further and further into the corners and extremities of the island, they retained their language uncontaminated with Saxon. In the Laws of Howell Dda, which were promulgated about the middle of the tenth century in Latin and Welsh, there are few evidences of Anglo-Saxon influences on the life or language of the Cymry.² With the coming of the Normans, however, for the first time since the Roman occupation, a foreign language, and that the most powerful spoken in Europe at that time, began to penetrate into Wales. For three centuries it became the language of the Court of England, for three centuries and a half the language of Charters, and Assizes, and Acts of Parliament, and for over six centuries, at first wholly, and afterwards in part, the language of "pleading" and of the law courts. The Norman lords-marcher erected 143 castles in Wales. They spoke their own language, and they administered in it their own laws.³ But while the speech of this dominant and aggressive people, who carried the fame of their prowess from Scandinavia through Europe to the islands of the Medi-

¹ See Morris Jones's "Taliesin," 28th vol. of the *Cymmrodor*, especially pp. 202-232.

² Nor did the Welsh laws show much trace of Roman influence. The only Welsh law term derived from Latin which I can recall is "tyst" (witness).

³ The King's assent to the passing of a statute is given even to-day in Norman French.

terranean, has disappeared from this kingdom almost entirely, the Welsh vernacular has survived, and shows few traces that it existed for so long side by side with the language of the Norman lords and the troubadours of France.¹ After three centuries, the language of the Norman conqueror and the Saxon subject became amalgamated. The new speech was ennobled in its early days by the genius of Chaucer. From that time onwards English proceeded from strength to strength. The great Elizabethans made it the repository of the finest literature of the modern world. Milton and Dryden, Addison and Swift and Steele, Pope and Gray, and countless others added to the vast store of its literary wealth. The French Revolution found its interpreters in English in the mighty voices of Wordsworth and Shelley and Byron. The Victorian Age gave fresh lustre to its resplendent worth. Bacon and Hobbes, Locke and Hume, Bentham and Mill made it the language of philosophy. From Newton to Darwin a host of great discoverers made it the language of science and of invention. Gibbon, prince of historians, forsaking the vanity that prompted him to write in French, produced in it his masterpiece, which opened a new era in the study and writing of history. The prose of the great Victorians, of Newman and Ruskin, of Landor and Froude has never been surpassed. The genius of Fielding and Sterne, of Scott and Jane Austen, of Dickens,

¹ *E.g.* the Welsh for "drake" is "meilart," and in South Wales, where the Norman influence was strongest, the word "cwtsh" (for "lie down"), "cer i gwtsh"—"go to bed," is probably derived from the French *coucher*. Probably the South Wales word for "shoe-horn," "*siespin*," is derived from the French "*chausse-pied*." But the number of words of French origin are surprisingly few.

Thackeray, and George Eliot has written their immortal names on "the Western world's illuminated scroll." Englishmen have carried their language to the utmost ends of the earth. The great young Republic of the West, the rising power of the world, has adopted it as its common speech. The 300 million natives of India commonly speak a hundred different dialects, but English has become the *lingua franca* used by them even in the Indian National Congress. Of all languages known to mankind, it is the most aggressive. It has penetrated not only into every part of the earth, but into every domain of human activity. Bacon sent his *Advancement of Learning* to Prince Charles in Latin, because he feared English books could not be "citizens of the world." But English has by this time "conquered regions Caesar never knew." Its flag flies over all the seven seas. It sweeps over them

An argosy with portly sail,
Like signiors and rich burghers on the flood
Do overpeer the petty traffickers.

The Latin poet proudly boasted, "*nihil humanum a me alienum puto*." That motto might truthfully be inscribed over the portals of every fairly representative English library.¹ For five centuries and more, Welsh has lived as the close neighbour of this powerful, all-pervading language. It has been divided from it by no range of Cheviot Hills, still less by a St. George's Channel. For centuries English has crossed Offa's Dyke, and even in the poems of Dafydd ap Gwilym (*fl.* 1350) there are to

¹ So much, perhaps, may be allowed a Welshman, who has not a drop of English blood in his veins, and who learned English as a foreign language, to say of English literature without provoking Lord Morley's "good-natured international smile" (*Politics and History*, p. 60).

be found many words taken from English.¹ Yet to-day Welsh not only survives as a spoken tongue ; its literature is more versatile, and its students and readers more numerous, than ever before. I can only repeat, it is a miracle.

This is all the more wonderful when we remember the political history of the two nations. Wales was subdued by Edward I. in 1282 ; but in the next century Dafydd ap Gwilym sang a new song—new in its themes, new in its treatment, new in its metre, new in its careless and joyous spirit. When the Wars of the Roses stifled the muse of England, Llawdden and Iorwerth Fynglwyd, Dafydd ap Edmwnd, Lewys Glyn Cothi, and Tudur Aled kept alive and maintained at a high level the traditions of Welsh poetry. When a Welshman was crowned King of England on Bosworth Field, it looked as if the triumph of Wales over its secular foes had been consummated. We have seen how, in the reign of Henry VIII., such changes were made in the relations of the two countries that vast material advantages inured to the benefit of the smaller and poorer country. But those changes were fraught with peril to the language of Wales. The Act of 1535 aimed a deadly blow at it. The preamble explained that it was “ nothing like nor consonant to the natural mother tongue used within this realm,” and the language which was spoken in Britain before the Saxons had left their German swamps was thus officially displaced by a hybrid speech not two hundred years old.² The sovereign’s policy was

¹ E.g. “ *Siopiau Sieb* ” (the shops of Cheapside), “ *lawnt* ” (lawn), “ *lifrai* ” (livery), “ *abit* ” (habit).

² We are too often apt to measure the difference between the literary repute of English in Henry VIII.’s time and that of

The greatest of the Salesburys was the translator, William Salesbury, who did more for Welsh and Welshmen than any man of his age. But he complacently looked forward to the time when only one speech would be used in the whole realm. In the Preface to his Dictionary (1647), which was dedicated to Henry VIII., he echoes the words of the preamble of the Act of Union. "What great debate and strife," he said, "hath arisen amongst men by reason of diversity of language. . . . Wherefore seeing there is many of your Grace's subjects in Wales that readeth the Welsh tongue," and in order to enable them to learn English, he was led to publish his Dictionary. The aim of both, the king and Salesbury, was the same ; they only differed in their method of attaining their object. King Henry thought that he could destroy the language "with the spirit of his mouth," and by the force of law. Salesbury believed that the surest way to bring about its destruction was by using it as a means to learn a new language to its subjects.¹

The effect of the enactment of 1535 soon became apparent. The "respectable classes," seeing that English had become the language of officials and officialdom, began to despise and scorn the language of their youth. Dr. Griffith Roberts of Milan, who retained his ardent love for Wales and Welsh during the forty years of his exile in the land of Midian, ridiculed, in his preface to

¹ Mr. W. Edwards, then Inspector of Schools for the Merthyr district, in a paper which he read in 1887 before the Cymmrodorion Society, gave vent to a similar opinion. "I feel certain," he said, "that the life of Welsh will not be appreciably prolonged by its recognition in schools. . . . When every Welshman knows English as well as he knows Welsh, and there is no nucleus of monoglots to act as a preservative, the weaker language will then rapidly die."

his Grammar in 1567, the advent of the Anglicised Welshman, whom Jack Glan-y-gors two centuries afterwards satirised under the nickname of "Dic Sion Dafydd." "For you will find some," he said, "that no sooner see the river Severn, or the clock-towers of Shrewsbury, and hear the Saxon say in his tongue 'good morrow,' begin to forget their Welsh and speak it with a foreign accent; their Welsh is Englishfied, and their English, God knows, is too Welshy."¹ Some years later (1592) Dr. Sion Dafydd Rhys, another "Italianate" Welshman, who had taken his degree in medicine at Sienna, and who had settled down to the practice of his profession in Brecon, published his Welsh Grammar—the first published in this country.² In the preface he scornfully refers to the Anglicised Welshmen. "But the filthy lees of Welshmen, if it be fair to tell the truth, are only the dregs and corruption and dross and scum of the people, and, as it were, the refuse of the country. And in the same sort and throne ought to be placed those who wish to destroy the language of the Cymry and put the language of the Saxon in its stead."³ Three years later (1595), in the preface to his translation of Bishop Jewel's *Defence of the Church of England*, Morus Kyffin

¹ "Canys chwi a gewch rai yn gytrym ag y gwelant afon Hafren neu glochdai'r Amwythig a chlywed Sais yn dywedid yn ei iaith 'good-morrow' a ddechreuant ollwng eu Cymraeg dros gof, a'i ddywedid yn fawr eu llediaeth. Eu Cymraeg sydd Seisnigaidd, a'u Saesoneg, Duw a wyr, yn rhy Gymreigaidd."

² Griffith Roberts's *Dosbarth Byrr* (1567) was the first Welsh Grammar printed, but it was published in Milan.

³ "Eithr nid yw y fursenaidd sorod o Gymru, os teg dywedyd y gwir, onid gohilion a llwgr a chrachyddion y bobl a'i brynteion: a megis cachaduriaid y wlad. Ac yn yr un orseddfa a chadair y dylid lleihau a gosod y rhai a fynant ddodi a difa iaeth y Cymru a dodi iaeth y saeson yn ei lle hi."

refers indignantly to some "clerical person in an Eisteddfod . . . He said that it was not right to allow any Welsh books to be printed, but he wanted all the people to learn English, and lose their Welsh, saying further that the Welsh Bible would do no good but a great deal of harm. . . . Could the devil himself say otherwise? Let all say Amen, and no more mention ever be made of him." ¹ The "clerical person" was not alone in this view, nor was this opinion peculiar to his age. Dr. Johnson, who was too good a "Conservative" and too cultured a man to view with indifference the extinction of the Celtic languages of Britain,² wrote in his *Tour in the Hebrides* with ironical scorn of people of the same tribe as Kyffin's cleric. "Their language (*i.e.* Gaelic)," he said, "is attacked on every side. Schools are erected in which English alone is taught, and there were lately some who thought it reasonable to refuse them a version of the Holy Scriptures that they might have no monument of their native tongue." Stephen Hughes, in a preface to an edition of *The Welshman's Candle* (1672), refers to a similar objection urged by the opponents of Welsh. "And so (they urge) that it is no

¹ "Rhyw wr eglwysig mewn Eisteddfod . . . Yntau a ddoeddodd nad cymwys oedd adel printio math yn y byd ar lyfrau cymreig, eithr efe a fynnai i'r bobl ddyscu saesonaeg a cholli eu cymraeg, A allai ddiawl ei hun ddoeddyd yn amgenach? Doeted pawb Amen. ac na chlywer byth mwy son am dano" (W. P. Williams's edition, 1908, p. xiv. of the author's *Anerch*).

² See Dr. Johnson's *Diary of a Journey into North Wales in the year 1774*, ed. R. Duppa, pp. 80-81. "After dinner, the talk was of preserving the Welsh language. I offered them a scheme. . . . I recommended the republication of David ap Rhees's Welsh Grammar." Would that the "scheme" had been elaborated, but Johnson never expanded his notes of the Tour through North Wales into a book.

good printing any sort of Welsh books," he said, "to keep up the language, but that it was right for the people to lose their language and learn English. But it is easier to say 'mountain' than to cross it. True it is that it would be a very good thing if everybody in Wales knew English."¹ The same objection was constantly raised against Griffith Jones's circulating schools, where the people were taught to read the Welsh Bible.² But the reply also was always the same. "Who does not know," said Kyffin, "how impossible it would be to bring all the people into a knowledge of English and to forget their Welsh, and how unreasonable in the meantime it would be to lose an innumerable amount of men's souls." Stephen Hughes, in the preface already referred to, makes some shrewd comments on the folly

¹ "Ar hynny yn barnu nad da printio math yn y byd o lyfrau Cymraeg i gynnal yr iaith i fyny, ond ei fod yn weddus i'r bobl golli eu iaith, a dysgu saesneg. Haws dywedyd mynydd na mynned drosto. Gwir yw mai da iawn fyddai pe tae pawb yng Hymru yn deall saesneg."

² Thomas Charles, writing about 1811, said, "More than 150 years ago in Wales, the whole country was in a deplorable state with regard to the acquisition of religious knowledge. For a long time previous, fashionable people had been trying to stamp out the language of the country, and to have the children taught altogether in English. Against these people, and against this state of universal ignorance, the Rev. Griffith Jones of Llandowror was raised up. . . . Sure I am, the Welsh charity schools do no way hinder to learn English, but do very much contribute towards it; and perhaps you will allow, sir, that learning our language first is the most expeditious way to come to the knowledge of another. . . . Experience now proves beyond dispute that if it be ever attempted to bring all the Welsh people to understand English, we cannot better pave the way for it than by teaching them to read their own language first." This counsel of common-sense and experience was, however, rejected by "educationalists" till the closing years of the last century, and even now its truth is only partially recognised by many education authorities in Wales.

of the Anglicisers from the common-sense and practical point of view. " And if for many generations there were 1300 educated and conscientious Englishmen keeping school at the same time in the thirteen counties of Wales to teach English to our fellow countrymen, nevertheless it would not be possible for the common people of our country to lose their mother's tongue during the following five hundred years if the world will last as long. Because only a few of our commonalty can afford to keep their children in school. And those who can be kept there, after learning English in the school, must speak Welsh at home, else they will not be understood, and when they grow up to be heads of families themselves, it is known that they will have to speak Welsh among their family, and generally in the fairs and markets—and how then will the Welsh language be lost? . . . Though very many in our country (thanks be to God) can make use of the English Bible, yet things are different with a third part of all Welshmen,¹ and there is no possibility in many generations, nor for all of them, nor to the greater number of them, to learn so much English as to enable them to understand the Bible in that language, unless God performs miracles."

It was only natural that the spoken Welsh should have deteriorated during the generations succeeding the Reformation. The monasteries, the free schools of the poor, had disappeared, and their place was inadequately filled by the few new Grammar Schools founded by

¹ The 1891 Census showed that there were still over half a million monoglot Welshmen in Wales. The proportion of monoglots had not, therefore, decreased in the two centuries succeeding Stephen Hughes. Now, however, the proportion is much smaller.

Edward VI. and Elizabeth.¹ Though these schools were designed for the education of poor children, the language of the schools was English.² The inevitable result occurred. In a short time the schools were only used for the education of the children of the middle and upper classes. Morus Kyffin's translation of Jewel's *Apologia* has long been recognised as a Welsh classic.³ But he himself in his "Address" to the reader states that he had abandoned all the old obsolete words, and had chosen the easiest and most vulgar words, so as to make his book intelligible to those who only knew the spoken Welsh.⁴ Though the words employed may have been

¹ At Brecon, Abergavenny, Bangor, Cowbridge, Presteign, Carmarthen and Ruthin (Edwards, *Wales*, p. 349). Sir Owen Edwards is, however, wrong (p. 350) in saying that the Master of Ruthin School (1595) had to know Welsh. The Warden of the Almshouse for old people was to be able to preach Welsh, but there was no such stipulation with regard to the Master of the School.

² The only Grammar School founded in Wales where Welsh was enjoined to be "the language of the school" was the Welsh Institution started in Llandovery in 1847 by Thomas Phillips, aided by Lady Llanover (then Lady Hall) and others. Archdeacon Williams, great schoolmaster, great scholar, great Welshman, was the first Warden. This is the language of the Trust Deed. "The Welsh language shall be taught exclusively during one hour every school day, and be then the sole medium of communication in the school, and shall be used at all other convenient periods as the language of the school. The primary intent and object of the founder, which is instruction and education in the Welsh language, shall be faithfully observed." Alas! The "Welsh Institution of Llandovery" has long been transformed into "Llandovery College," and "the primary intent and object" of the pious founder has been with impunity ignored.

³ W. P. Williams' edition, Introduction, p. 76.

⁴ "Mi a dybiais yu oref adel heibio'r hen eiriau cymreig yr rhai ydynt wedi tyfu allan o gydnabod a chydarfer y cyffredin, ag a ddewisais y geiriau howsaf, rhwyddaf, a sathredicaf i gallwn, i wneuthyr ffordd yr ymadrodd yu rhydd ac yn ddirwystus i'r sawl ni wyddant ond y gymraeg arferedig."

only those used in common speech, Kyffin was a scholar and a linguist. His idiom is pure and his style is so polished that the praise which he bestows on Dr. Griffith Roberts as a writer of Welsh, may well be applied to himself.¹ If, however, we wish to realise the character and quality of the Welsh in daily use, Vicar Pritchard's verses afford us better evidence, for Kyffin, though the delight of scholars, has never been accounted a popular writer. The "old Vicar's" rhymes, however, attained national celebrity. Next to the Bible *The Welshman's Candle* was easily the most popular of all Welsh books. It was the avowed design of the Vicar to write in the ordinary language of the people. He eschewed all attempts at literary grace. He consciously and deliberately refused to follow Salesbury, who had striven to create a literary language differing from the spoken language of the people.² The fact that for two centuries *The Welshman's Candle* maintained its unique popularity in North³ as well as in South Wales shows that it was written, as Kyffin tried but failed to write, in a language which was "understood of the people."

¹ "Darn o waith . . . mor buraidd, mor lathraidd, ag mor odidawg ei ymadroddiad, na ellir damuno dim perffeithiach yn hynny o beth."

² See the author's "letter to the reader" in Rees's edition (1867).

Am wel'd dwfn-waith enwog Salesbury
 Gan y diddysg heb ei hoffi
 Cymrais fesur byw cyn blaened
 Hawdd i'w ddeall, hawdd i'w 'styried.

The editor, however, thinks that the reference is not to William Salesbury but to Thomas Salesbury, who brought out at his own expense the metrical version of the Psalms by Captain William Middleton, after the author's death.

³ Daniel Owen in his finest novel, *e.g.*, makes Rhys Lewis' mother in Flintshire quote the "old Vicar."

The most casual reference to the Vicar's verses will show the extent to which Welsh had degenerated. There is hardly a page in which the reader will not find one or more English words, for which to-day there are not, in the ordinary speech of the people, Welsh equivalents. Stephen Hughes, writing a generation later, complains that his own Welsh is bad, "for you well know that, as I write, so we speak in South Wales."¹ He beseeches his readers "to take in good part my (his) poor Englishified Welsh, which differs both in words and phrases and terminations from the good Welsh they have in Gwynedd."² But the Welsh of Stephen Hughes is as superior to that of Vicar Pritchard as the Welsh of another Carmarthenshire man, Williams of Pantycelyn, a century later, is superior to that of Stephen Hughes.

The deterioration in the language was the necessary and inevitable result of the changed condition of things in Wales. The age of Elizabeth produced excellent translations, dictionaries, and grammars, but little or no original prose.³ Griffith Hiraethog and Sion Brwynog, William Llŷn and Owen Gwynedd, William Cynwal and Edmund Prys, Simwnt Fycham and Sion Tudur and others carried on the poetic tradition in North Wales, and though their themes were trite, and their methods

¹ "Canys chwi wyddoch yn ddigon da mai y modd yr ydwyf fi yn scrifennu yr ydym ni yn llefaru yn Neheudir Cymru."

² "I gymmeryd mewn part da fy Nghymraeg wael Saesnigaid i sydd a gwahaniaeth ynddi, mewn geiriau ac ymadroddion a diweddiad geiriau a'r Gymraeg dda sydd ganddynt yng Wynedd."

³ Dr. Morris of Clynog's *Athrawaeth Gristnogawl* was the first original prose work printed in Welsh, under the auspices of Dr. Griffith Roberts at Milan (1568). A supplement *Y Drych Cristionogawl* by Dr. Griffith Roberts was published by Rhosier Smith in 1585.

of treatment were mere imitations of the old masters of an earlier and more original age, they not unworthily kept the torch of Welsh poesy flaming, and did their best to hand it down to the succeeding generation.¹ But at the end of the sixteenth century, Edmund Prys was left almost alone.² Dr. Sion Dafydd Rhys, in his introduction of his Grammar (1592), bewails the selfishness, the exclusiveness, and the insensate jealousy of the bards, who tried to make a mystery of their craft, and so stifled the life of the Welsh muse.³ In Glamorgan-shire the bards of Tir Iarll still sang after the manner of the school which had refused to obey the rules laid down in the Carmarthen Eisteddfod of 1451.⁴ Their productions have been published, in recent years, by Hopcyn and Cadrawd in *Hen Gwndidau* and *Hopcyniaid Morgannwg*,⁵ but though these poems are valuable

¹ It should not be overlooked, however, that little Welsh poetry was printed in the sixteenth and seventeenth centuries. Until the Commonwealth only Edmund Prys's metrical version, and Capt. Middleton's rendering of the Psalms were published. The poems of the Elizabethan bards for the most part still remain unpublished, and even the poems of Dafydd ap Gwilym were not printed before 1789.

² Sion Tudur, Simwnt Fychan, and Sion Phylip survived into the seventeenth century, and there were other bards of lesser note. But all the greater bards may be said to belong to "the age of Elizabeth."

³ "Gellir canfod foder ys hir dalm o amser fai mawrar brydyddion a chymreigydhion cymry o barth distriwiad ac aghen yr iaith . . . canys cadw a chudhio o' notaynt y rhei hynn, ac ereill hefyd eu llyfrau a'u gwybodaethau mywn cistieu a lleoedd dirgel. . . ." The whole passage is worth careful study, describing as it does how the destruction of many valuable Welsh MSS. came about.

⁴ Sir John Morris Jones has told in *Cymru* the real story of the Carmarthen Eisteddfod of 1451. The bards of Glamorgan withdrew as a protest against the imposition of the twenty-four metres of Welsh prosody, and set up the Gorsedd Tir Iarll.

⁵ Jarvis & Foster, Bangor.

as throwing light on the social and religious life of the time, as poetry they are not of much account, and not a single line which they composed survived in popular memory. From 1568 to 1798 no Eisteddfod was held in Gwynedd.¹ Seven Eisteddfodau were held in South Wales in the sixteenth century, but only eighty all told attended them. An Eisteddfod was held in Glamorgan in 1620, and there were only four present. From 1546 to 1644 it has been computed that 269 books were published by Welshmen or about Wales.² Of these 44 were in Latin, 184 in English, and 41 in Welsh. Of the 41 Welsh books, 37 dealt with religious topics, and up to the year 1660, only two original prose works had been published in Welsh, the second being Morgan Llwyd's *Book of the Three Birds*. In the greater part of Wales Welsh was being degraded into a mere patois which was becoming more and more corrupt, more infected with English words and idioms, and sinking into the state of inanition that precedes death, because it had almost entirely ceased to be the medium of the religious aspirations or the literary genius of the people. Its retention in that state would have been a real disaster to its children. It was of no more benefit to them than their rude speech is to the savages of Tierra del Fuego.

But by the end of the seventeenth century the condition of things had changed as if by the waving of a

¹ This statement is given on the authority of the late Ivor James ; but Sir J. Morris Jones is of opinion that some Eisteddfodau were held in taverns in the seventeenth century.

² This was the computation of the late Ivor James, sometime Registrar of the Univ. Coll. of South Wales, about 1888, in the *Red Dragon* magazine. But so many fresh discoveries have since been made that the estimate will have to be revised when a new and authoritative bibliography of Welsh books, which is long overdue, has been issued.

magic wand. The language was purified, an appreciable number of the people were taught to read, and they began to appreciate the value of their opportunity. In 1677 a second edition of *Agoriad byr o Weddi'r Arglwydd*, "A short introduction to the Lord's Prayer," appeared. It had been first published in 1600. It was translated from the English of William Perkins, one of the Cambridge Puritans, by the Rev. Robert Holland, the Rector of Llanddowror. The producer of the second edition (Stephen Hughes), in his "Letter to the Reader," explained that he had amended the text because "it is nearly 80 years since Mr. Holland's book was first printed, and as with English, so with Welsh, the language has been greatly purified since that time."¹ In the first half of the seventeenth century there was practically no market for Welsh books. Only 1500 copies of the cheap "little Bible" were printed in 1630, and, if tradition is to be relied on, a goodly portion of them remained in the publisher's hands twenty years later. "Before the year 1654, on the most favourable estimate, only 3500 Bibles and 1000 New Testaments in addition to that of Salisbury had been published. This meant one Bible to every 70 of the inhabitants."² Of this number, however, the 1000 New Testaments were published by Walter Cradock and Vavasour Powell in 1646. Only 3500 Bibles therefore had been published before the Puritan Rebellion, and 2000 of them were designed only for use in the parish churches. But an amazing change was to come over the scene. Six

¹ It would be interesting to compare the two editions in order to ascertain the nature and extent of Stephen Hughes's amendments. But I have not been able to procure either edition.

² Sir John Williams's "Address" in the *Bible in Wales*.

thousand copies of the Bible and 1000 copies of the New Testament were published during the Commonwealth.

In 1670 Stephen Hughes published the third part of Vicar Pritchard's *Welshman's Candle*. In the preface he stated that after the printing of the first two parts (in 1646 and 1659), "multitudes learnt to read Welsh and bought Testaments and Bibles: and so knowledge and godliness increased in Wales." He went on to say that the London publishers would not print an edition of the Welsh Bible because it would take twenty years to dispose of 6000 copies, "and we who live by our crafts" said they "cannot wait so long without having our money back."¹ Two years later, Stephen Hughes published an edition of 2000 New Testaments as well as a complete edition of *The Welshman's Candle* and a new edition of Perkin's Catechism. Between 1672 and 1689 he published no less than 20,000 copies of the Bible and 1000 copies of the New Testament.²

In 1717 the Rev. Moses Williams, Vicar of Devynock,³ edited, and the Society for Promoting Christian Knowledge brought out, an edition of 10,000 copies of the Welsh Bible. Ten years later another edition of probably 10,000 was issued, the first edition having been exhausted.⁴ Though emphasis has been laid on editions

¹ Quoted (in English) in Ballinger's "Vicar Pritchard," the *Cymmrodor*, vol. xiii. pp. 9-10.

² Stephen Hughes died in 1688, and did not see the 1689 edition through the press. His friend and neighbour, the Rev. David Jones, of Llantyssilio, an Independent preacher, supervised the printing.

³ "A patriot, to whom we owe an incalculable debt, not only for the literature which he supplied to, but also for that which he preserved for, Wales" (Sir John Williams, *Bible in Wales*, p. 11).

⁴ The third S.P.C.K. edition of 15,000 copies appeared in 1746, and the fourth also of 15,000 copies and 5000 New Testaments in 1752.

of the Bible, the range of the new literature was not limited by the growing religious interests of Wales. Charles Edwards in 1671 published *Hanes y Ffydd ddifffuant*, "The History of the unfeigned Faith," and it went through three editions in the course of six years. In 1703 appeared *Gweledigaethau y Bardd Cwsg*, "The Visions of the Sleeping Bard," Ellis Wynn's immortal work, the fount of Welsh pure and undefiled, which still remains the literary gem of the language. In 1716 Theophilus Evans published the first edition of *Drych y Prif Oesoedd*, "The Mirror of the Early Ages," an imaginative and romantic, but wholly unscientific—which makes it all the more delightful—history of the Cymry from primeval days to the reign of Howel Dda. Written in nervous and idiomatic Welsh, as full as Homer of striking metaphors and apt similes, its vivid and dramatic narrative has fascinated seven generations of Welshmen and still affords entertaining reading even to those whose faith in the erudition and accuracy of the old writer has long been shattered. Early in the eighteenth century Griffith Jones, Llanddowror, started his circulating schools, where children were taught to read Welsh. By 1761, the year of Griffith Jones's death, according to Pantycelyn, 3000 of these schools had been founded, 120,000 scholars had been taught, and 30,000 copies of the Welsh Bible had been distributed.¹

Hitherto all Welsh books had been printed in England, mostly in London and Oxford. In 1718 Isaac Carter

¹ See Griffith Jones's elegy.

Dacw'r Biblau teg a hyfryd
Ddeg ar hugain filoedd llawn
Wedi eu trefnu i ddod allan
Trwy ei ddwyllaw'n rhyfedd
iawn ;

Tair o filoedd o ysgolion
Gawd yng Nghymru faith a mw
Chwech ugain mil o ysgolheigion
Fu a rhagor ynddynt hwy,

set up the first printing press in Wales at Trefhedyn, a suburb of Newcastle Emlyn. In 1721 Nicholas Thomas established a press at Carmarthen, where he was some years later followed by John Ross, the printer of Pantycelyn's Hymns and Peter Williams's Bibles. Lewis Morris for a time (1735) set up a press at Holyhead, which afterwards found its way to Trefriw. A press was established in Pontypool in 1740, in Wrexham in 1745, in Bridgend in 1770, and in Brecon in 1772.¹ During the nineteenth century a stream of publications was issued out of the Welsh press. But no town could boast of being the metropolis of Welsh literature. It is seldom that an English work is published elsewhere than in London or Edinburgh. Far different has been the case with Wales. Carmarthen and Carnarvon, Llanelly and Bangor, Swansea and Bala, Llandovery and Llanrwst, Cardiff and Denbigh can claim no monopoly in the printing of Welsh books. As the democratic culture of Wales has been widely diffused, so there has been no national centre for publication. Every locality can boast of its own famous printing press.²

Dau argraffiad, glan ddiwygiad,	Y goleuni gadd ei enyn
Llawn, ac isel bris i'r gwan,	O Rheidol wyllt i Hafren hir
Mewn cabanau fe geir Biblau	Tros Plinlimon faith yn union
'Nawr gan dlodion ym mhob	Twynodd ar y gogledd dir.
man.	

Sir Thomas Phillips (*Wales*, pp. 284-6) states that in twenty-four years, 150,212 persons had been taught in these schools to read the Welsh Bible.

¹ *Journal of Welsh Bibliographical Society* (ed. Dr. Rhys Phillips) for December, 1918, p. 125.

² " Pwy all ddweyd . . . pa un ai yng Nghaerfyrddin neu yng Ngharnarfon, yn Llandyfri neu Llanrwst, yng Nghaergybi neu yng Nghaerdydd, yn Abertawe neu'r Bala, yn Llanelli neu yn Ninbych, yr argraffwyd mwyaf o lyfrau Cymraeg? Mae cariad at lenyddiaeth a sel dros ddiwylliant wedi eu gwasgar drwy dair

This has been of infinite advantage to a country like Wales which from its natural configuration and conformation cannot easily centre its activities in one spot. It enabled the writers of every locality to have ready access to the press.¹

In this way the ground was prepared, first by the early work of the Puritans in the seventeenth, and then by the activities of such men as Moses Williams and Griffith Jones in the eighteenth century, for the sowing of new seed by the Methodist Fathers. It is an idle and barren controversy to dispute as to who was greatest in this beneficent endeavour to rescue the mother tongue of Wales from the pit into which she had fallen. All sects and all parties contributed to the result. But for the abiding work of the Elizabethan clergy, and the shrewd

sir ar ddeg Cymru, fel nad oes un sir na thre na phentre yn gallu ymfrostio yu y flaenoriaeth" (*Rhamant Hanes Cymru*, p. 5).

¹ How important even in our days it is for a writer to be in close proximity to the printer will be appreciated by all authors. But in days when travelling was difficult and the post unreliable and uncertain, it is hardly conceivable how Welsh books came to be printed in London or Milan by compositors who knew no Welsh. Dr. Sion Dafydd Rhys, in his Preface, makes a sly allusion to his sufferings at the hands of the "printer's devil." "Ie (ysgatydh) chwydwi a dhywedwch 'phy phy' dyma air yn gghamm, a dyma arall yn ggham; ac my bydh gennych onyd ymgyfarfod a'r camm, a neidio o gamm i gamm: minheu (on bydh gennych swydh a fo gwelh) a gynghorwn ywch ynn eych unswydh fynat yn dhiarchen (sef yn esgeirnoeth droednoeth er mwyn dwyn eych penyd) hyd yn Ghaer Ludh: ac yno a'ch cappieu yn eych dwylo, deisyf o honoch arr y Printydion wella peth ar eu dwylo pryd y printiont dhim cymraec o hynn i maes." Stephen Hughes, who was commended by Thomas Charles for correcting so many mistakes which had found their way into previous editions of the Bible (Hughes says in his preface to *Canwyll y Cymry* (1672) that there were "hundreds" of printer's errors in the New Testament of 1648), suffered greatly from the mistakes of compositors (see preface of 1672).

genius of Vicar Pritchard, the task set before the Puritan Fathers would have been impossible of accomplishment. But for the timely activities of Stephen Hughes and his fellow-labourers, the zeal and patriotic energy of Moses Williams and Griffith Jones would have come too late. But for all that had been done by Churchmen and Nonconformists alike, Howell Harries and Daniel Rowlands would not have been able to make their appeal, with such instantaneous success, to the conscience of their countrymen.¹ At the impartial judgment bar of history, let all who served and sacrificed for Wales and Welsh receive their due meed of recognition and of praise. If Paul planted, and Apollos watered, let us in grateful humility thank God, who alone gave the increase.

After, in this strange and haphazard manner, the ancient British speech had been rescued from what seemed to be its inevitable doom, and a reading public began to be formed, a literary revival followed. It is beyond the scope of this work to trace in detail, or at all, the various literary activities of eighteenth century Welshmen. Lewis and Richard Morris, Goronwy Owen and Ieuan Brydydd Hir, Owen Myfyr, Iolo Morganwg, and Dr. William Owen Pughe, Jack Glan-y-Gors and Morgan John Rhys are shining names which the lovers of Welsh literature will never willingly forget. At the end of the eighteenth century, the Eisteddfod was revived. Literary Societies, such as the Cymmrodorion

¹ Dr. Thomas Rees (*Hist. of Nonconformity in Wales*, p. 313) points out that the first Methodist Revivals broke out in neighbourhoods where there were already dissenting congregations. Anglesea and Carnarvon, where there had been little Puritan activity, were the last to come under the influence of the Methodist Revival.

and the Cymreigyddion, were formed. Thomas Charles started the Sunday Schools, where children were taught to read, and adults and children were taught to think—one of the finest educational institutions in the world. Literary coteries began to grow up in the nineteenth century even in the most remote corners of the land,¹ so that before ever the State took in hand the education of the people in 1870, the peasants and artisans of Wales had evolved for themselves a means of democratic culture, such as no other country in Europe has enjoyed. We hear much of the “ Republic of letters ” ; it is the glory of Wales that she has, in spite of countless difficulties, established such a republic amidst her mountains. The range of her literature is not great. It is crass folly to compare Twm o’r Nant with Shakespeare, or Hiraethog, potent genius though he was, with Milton, or even Islwyn with Wordsworth. Wales has as yet had no leisured Tennysons or travelled Brownings. Her poets and men of letters have nearly all been free from “ the pedantry of courts and schools.” No Welsh writer has ever lived by his pen. They are in the most literal sense of the word “ amateurs,” who employ their scanty leisure in the literary pursuits which they love. Cromwell, in a famous passage in one of his letters to the Long Parliament, said that he preferred to gentlemen “ those russet-coated captains who know what they fight for, and love what they know.” The russet-

¹ See, e.g., Myrddin Fardd’s collection of letters between the bards of North Wales, and especially of Carnarvonshire, in his *Adgof uwch anghof*. Myrddin, who is a blacksmith by trade, has devoted his life to collecting Welsh books and documents, and has also published excellent volumes on the “ Folklore ” and the “ Dialect words (*gwerin-eiriau*) ” of Carnarvonshire, and on “ Welsh Place-names,”—a fine illustration of the “ democratic culture ” of Wales.

coated men of letters of Wales have not made, and probably can never make, a "profession" of literature. When they are taunted, as too often they have been, with the meagreness of their output this should in fairness be remembered. And who shall say who is the real "happy warrior," the man who lives by his pen, or he who finds refuge and solace from the work-a-day cares of the world in holding communion with the "angel of the vale and the muse of the stream."¹ At all events such have been the men who have created the beautiful literature of Modern Wales. Islwyn was a preacher; Ceiriog, who need fear no comparison even with Burns, was a stationmaster; Dewi Wyn o Eifion was a farmer; Dewi Wyn o Essyllt a miller; Hiraethog learnt the rules of Welsh prosody while tending his father's sheep on the mountain-side at Llansannan, Watcyn Wyn while working underground in a coal-pit; Eben Fardd was a weaver; Telynog earned his living before the mast when still a child, and during the last four years of his all too short life he worked as a collier at Aberdare; Daniel Owen, our national novelist, was a tailor; Thomas Stephens, one of the sanest critics and one of the most erudite Welsh scholars of the last century, was a chemist. The same thing is true of the whole of Welsh national life. During the last forty years there has been built up a noble structure of national education. It is not perfect. We have done some things which we ought not to have done, and we have left undone some things which we ought to have done. But such as it is, it is the handiwork of the people of Wales, and the architects who conceived and the builders who erected it are discovering what is weak and defective in

¹ "Angel y dyffryn ac awen yr afon"—Islwyn.

its construction. As they had the vision to see and the courage to act in the past, so we may hope they will not fail to face manfully the new problems which confront them and make strong what is weak and complete what is defective. Most of all, provision must be made to ensure that the education of the schools shall not "quench the spirit" or stifle the native culture of the Welsh people. If this is to be done, the first thing to be remembered is that the instrument and medium of that culture has been and is the vernacular speech. No language can live without a worthy literature; the names which have been mentioned—only a few selected almost at random from a "cloud of witnesses" who might have been cited—attest the fact that Wales has a native literature, limited it is true in range and compass, but within those limits unsurpassed by that of any modern nation. But there is a greater and more pressing consideration. The native literature, as it has been produced by the people, is also read by the people, and the circle of readers is as wide to-day as—perhaps wider than—it ever was. "Some months ago," said Sir John Williams in 1904, "I took a parcel of books to the binder. They had seen better days, and wanted a new suit. They did not look very respectable, and I attributed their condition to neglect and abuse; but my eyes were opened to the cause of it by the binder, who expressed his admiration for the use which had been made of them, adding that he rarely saw English books which showed signs of having done such service. Their condition was not the result of neglect or ill-treatment, as I had supposed, but of the attention which they had commanded, and the service which they had rendered. I felt proud of my ragged company as well as of my

countrymen.”¹ Some districts of Wales have already been Anglicised. Is the Eisteddfod succeeded there by a Literary Institute? Is the well-thumbed Ceiriog replaced by a dog-eared copy of Pope or Gray or Moore or Scott? Is Dickens substituted for Daniel Owen? The wisest and most clear-sighted leaders of modern Wales have spoken with no uncertain voice on the duty of this generation of Welshmen. “Wales,” said the late Dean Vaughan of Llandaff, “has a patriotic and a religious duty still towards the language in which she was born. She has, first, to see that it be articulately and grammatically formed and shaped in all its particulars, so that it be no patois of chance, or trick, but a language worthy of the respect of other languages, worthy to become the study of the learned and training speech of the young. Next, that it shall have a literature all its own, a literature without a knowledge of which the education of a scholar shall be confessedly incomplete,—a literature unapproachable save through its language, and therefore securing to that language the undying interest and unstinting effort of all who would think or know.”² The monumental work of Dr. Gwenogfryn Evans, who has, unaided, reproduced diplomatically and in facsimile a vast amount of our ancient literature, with a skill and a scholarly accuracy which has evoked the admiration of all who are most competent to form a judgment;³ of the late Sir John Rhys, Principal

¹ “Address” prefacing the *Bible in Wales*, p. 12.

² Southall's *Wales and her Language*.

³ E.g. Sir J. Morris Jones (*Cymmrodor*, vol. xxviii, p. 39) says that “they surpass anything that has ever been achieved in the way of printed texts; Dr. Evans has developed the art of printing in facsimile to a point never before reached.”

of Jesus College, Oxford, most modest and erudite of scholars ; and of Sir John Morris Jones, poet, philologist, grammarian, and man of letters, has already almost satisfied the first part of Dean Vaughan's pious aspiration. Nor need Welshmen despair of the concluding task. Dafydd ap Gwilym, the Mabinogion, and Ceiriog are the study and the delight of French, German and Russian scholars and literati. Even English scholarship is beginning to pay attention to the unexplored treasures at its door. The young school of Welsh poets, a nest of singing birds, bids fair to rival and perhaps to surpass the glories of the past.¹ But no live literature can be produced if the language in which it is written is dead. Shilleto's Latin may be as smooth, as idiomatic, and as correctly perfect as Cicero's *Letters to Atticus* ; but while Cicero will be read as long as men care for great writing, Shilleto is already only a name. The last word on the subject was spoken by the late Principal, Thomas Charles Edwards, who was the bearer of two resounding names in the story of Wales, and who himself was not unworthy to bear them. "To permit the people of Wales," he said,² "to lose their knowledge of literary Welsh, the language of the Welsh Bible, so that they will understand no other Welsh than the mongrel patois of the streets, is to abandon deliberately the creative

¹ It has been claimed that the New School of Welsh Poets can challenge comparison with the modern poets of any country. Be that as it may, it is certain that the poetry of Gwynn Jones and Morris Jones, or W. J. Griffith and Eifion Wyn, or Parry Williams and Williams Parry, or Sarnicol, Wil Ifan, and Gwili,—to mention only a few names—shows the ineradicable energy of Welsh genius. Nor should one forget the remarkable resurgence of the Welsh drama in recent years, under the inspiration of such men as D. T. Davies, J. O. Francis, and R. J. Berry.

² Southall's *Wales and her Language*, p. 185.

influences of the past, to break for ever with the ennobling examples of our great men, to throw away the heritage of many centuries, in order to start, forsooth, from the low intellectual and moral condition of savage tribes. Let English come and take possession if it can. But let the intellectual and moral life of the future be the natural development of the past. This it cannot be if we foolishly and criminally neglect ¹ to teach literary Welsh until we have accomplished the task of teaching literary English. . . . The people must be taught not only to read the Welsh of Bishop Morgan, but also the Welsh of Goronwy Owen, and to feel in the very depths of their being the creative influences of the past that should always be present, and of the dead that never die."

¹ "What if by our neglect of Welsh we are throwing away a great gift of Providence?" (Dr. Rowland Williams, p. 259; *Lays from the Cambrian Lyre*, by Goronva Camlan, 1846).

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